

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL ) MDL No. 2804  
5 PRESCRIPTION OPIATE )  
6 LITIGATION ) Case No.

) 1:17-MD-2804

7 )  
8 THIS DOCUMENT RELATES TO ) Hon. Dan A. Polster  
9 ALL CASES )

)

10 — — —  
11 Friday, February 22, 2019

12 — — —  
13 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
14 CONFIDENTIALITY REVIEW  
15 — — —

16  
17 Videotaped Deposition of MATTHEW ROGOS,  
18 held at Marcus & Shapira LLP, One Oxford  
19 Centre, Suite 3500, Pittsburgh, Pennsylvania,  
20 commencing at 1:09 p.m., on the above date,  
21 before Michael E. Miller, Fellow of the  
22 Academy of Professional Reporters, Registered  
23 Diplomate Reporter, Certified Realtime  
24 Reporter and Notary Public.

25 — — —  
26 GOLKOW LITIGATION SERVICES  
27 877.370.3377 ph | fax 917.591.5672  
28 deps@golkow.com

Page 2	Page 4
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Page 3	Page 5
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<p>1 DEPOSITION EXHIBITS 2 MATTHEW ROGOS 3 February 22, 2019 4 HBC SERVICE-ROGOS EXHIBITS 5 Exhibit 1 P-GEN-00145 11 6 Resume 7 [No Bates] 8 Exhibit 2 P-HBC-6009 21 9 Meeting Presentation 10 HBC_MDL00068314 11 Exhibit 3 P-HBC-6021 23 12 E-mail(s) w/Attachment(s) 13 HBC_MDL00136653 - 14 HBC_MDL00136654 15 Exhibit 4 P-HBC-6022 27 16 E-mail(s) w/Attachment(s) 17 HBC_MDL00136141 - 18 HBC_MDL00136213 19 Exhibit 5 P-HBC-05040 38 20 E-mail(s) w/Attachment(s) 21 HBC_MDL00140166 - 22 HBC_MDL00140204 23 Exhibit 6 P-HBC-01266 52 24 E-mail(s) w/Attachment(s) 25 HBC_MDL00180061 - HBC_MDL00180088 Exhibit 7 P-HBC-01271 66 Inventory Control Doc HBC_MDL00052107 - HBC_MDL00052110 Exhibit 8 P-HBC-01272 78 10/13/14 Memo w/Attachment(s) HBC_MDL00132908 - HBC_MDL00132924 Exhibit 9 P-HBC-05045 90 E-mail(s) w/Attachment(s) HBC_MDL00133435 - HBC_MDL00133463</p>	<p>1 PROCEEDINGS 2 (February 22, 2019 at 1:09 p.m.) 3 THE VIDEOGRAPHER: We're now on 4 the record. My name is Devyn 5 Mulholland. I am the videographer for 6 Golkow Litigation Services. Today's 7 date is February 22nd, 2019. The time 8 is 1:09 p.m. 9 This video deposition is being 10 held in Pittsburgh, Pennsylvania in 11 the matter of National Prescription 12 Opiate Litigation. The deponent is 13 Matthew Rogos. 14 Counsel will be noted on the 15 stenographic record. The court 16 reporter is Mike Miller, and he will 17 now swear in the witness. 18 MATTHEW ROGOS, 19 having been duly sworn, 20 testified as follows: 21 EXAMINATION 22 BY MR. BARTON: 23 Q. All right. Mr. Rogos, my name 24 is Eric Barton. We met just before the 25 deposition. I am one of the attorneys</p>
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<p>1 HBC SERVICE-ROGOS EXHIBITS 2 3 Exhibit 10 P-HBC-05042 97 4 E-mail(s) w/Attachment(s) 5 HBC_MDL00181521 - 6 HBC_MDL00181555 7 Exhibit 11 P-HBC-05043 107 8 E-mail(s) w/Attachment(s) 9 HBC_MDL00181482 - 10 HBC_MDL00181511 11 Exhibit 12 P-HBC-05003 118 12 E-mail(s) w/Attachment(s) 13 HBC_MDL00078594 - 14 HBC_MDL00078668 15 Exhibit 13 P-HBC-01184 127 16 E-mail(s) w/Attachment(s) 17 HBC_MDL00133670 - 18 HBC_MDL00133748 19 20 21 22 23 24 25</p>	<p>1 representing the plaintiffs in some 2 litigation involving the opioid epidemic, and 3 we're here to take your deposition today. 4 Have you ever had your 5 deposition taken? 6 A. No. 7 Q. Okay. I'll explain a little 8 bit about the process, and I know that you've 9 probably talked with counsel about the 10 process as well. 11 But first, do you understand 12 that you have just taken an oath the same as 13 if you were sitting in a courtroom in front 14 of a jury? 15 A. I do. 16 Q. Okay. And so the oath is to 17 tell the truth under penalty of perjury, and 18 you understand that, correct? 19 A. I do. 20 Q. Thank you. 21 The -- because we have a court 22 reporter who will be making a transcript of 23 what we say today, I will need you to give 24 audible answers and try not to interrupt me 25 as I try not to interrupt you.</p>

<p style="text-align: right;">Page 10</p> <p>1 Is that okay?</p> <p>2 A. That's fine.</p> <p>3 Q. All right. If you don't</p> <p>4 understand a question that I ask, please feel</p> <p>5 free to tell me so and ask me to try to</p> <p>6 clarify it for you. Is that all right?</p> <p>7 A. That's fine.</p> <p>8 Q. Okay. And you are represented</p> <p>9 today in this deposition?</p> <p>10 A. I am.</p> <p>11 Q. Okay. And your counsel is here</p> <p>12 with you, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. Who is your current</p> <p>15 employer?</p> <p>16 A. ABARTA Coca-Cola.</p> <p>17 Q. Okay. And how long have you</p> <p>18 worked for Coca-Cola?</p> <p>19 A. Since May of 2015.</p> <p>20 Q. We're here today to ask you</p> <p>21 questions primarily about your work for Giant</p> <p>22 Eagle's HBC Service Company.</p> <p>23 Do you understand that?</p> <p>24 A. I do.</p> <p>25 Q. When did you work for Giant</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. When you first started working</p> <p>2 for Giant Eagle's HBC Service Company, was</p> <p>3 that in the title of distribution operations</p> <p>4 manager?</p> <p>5 A. In 2013, yes.</p> <p>6 Q. Okay. And you retained that</p> <p>7 role for the entirety of your tenure with</p> <p>8 HBC?</p> <p>9 A. Until I left, yep.</p> <p>10 Q. Okay. And so prior to working</p> <p>11 for HBC, you had been working for other</p> <p>12 divisions or subsidiaries of Giant Eagle; is</p> <p>13 that right?</p> <p>14 A. That's correct.</p> <p>15 Q. And those are listed there on</p> <p>16 the second page of your r?sum??</p> <p>17 A. Uh-huh.</p> <p>18 Q. During those positions, from</p> <p>19 2003 up until November of 2013, had you --</p> <p>20 had you had any experience or training in any</p> <p>21 of those positions dealing with controlled</p> <p>22 substances or pharmaceuticals?</p> <p>23 A. Prior to getting to HBC, you</p> <p>24 mean?</p> <p>25 Q. Correct.</p>
<p style="text-align: right;">Page 11</p> <p>1 Eagle's HBC Service Company?</p> <p>2 A. I worked for them from the time</p> <p>3 period approximately November 2013 to May of</p> <p>4 2015.</p> <p>5 Q. Okay. Let me hand you -- let's</p> <p>6 just use this one as Exhibit 1.</p> <p>7 (HBC-Rogos Deposition Exhibit 1</p> <p>8 marked.)</p> <p>9 BY MR. BARTON:</p> <p>10 Q. Okay. I've marked a document</p> <p>11 as Exhibit 1, I'm handing it to you. I'll</p> <p>12 represent this document Exhibit 1 has an</p> <p>13 identifying number, our own identifying</p> <p>14 number at the top that's P-GEN-00145.</p> <p>15 But does this appear to be a</p> <p>16 r?sum? of yours that summarizes your</p> <p>17 education and experience?</p> <p>18 A. Yes.</p> <p>19 Q. Is this something that you</p> <p>20 prepared?</p> <p>21 A. It is.</p> <p>22 Q. Okay. And does it fairly and</p> <p>23 accurately summarize your education and work</p> <p>24 history?</p> <p>25 A. It does.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No.</p> <p>2 Q. Okay. When you left HBC in May</p> <p>3 of 2015, was that -- was that a voluntary</p> <p>4 decision on your part?</p> <p>5 A. It was.</p> <p>6 Q. The role of distribution</p> <p>7 operations manager, did you have essentially</p> <p>8 kind of overall supervisory responsibility</p> <p>9 for all operations of the warehouse?</p> <p>10 A. Yes.</p> <p>11 Q. And your counsel almost</p> <p>12 objected. That reminded me just as a process</p> <p>13 point. There may be some objections to</p> <p>14 questions that I ask today, and if there are,</p> <p>15 unless your counsel instructs you not to</p> <p>16 answer, you understand that you will go ahead</p> <p>17 and try to answer my question?</p> <p>18 A. I'll try.</p> <p>19 Q. Okay. So the operations of the</p> <p>20 HBC warehouse, as I understand it, it was</p> <p>21 only a portion of the overall warehouse that</p> <p>22 was identified and specific to the</p> <p>23 pharmaceutical distribution piece, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And within that pharmaceutical</p>

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1 distribution piece, there was also a separate  
 2 defined area that was secured for controlled  
 3 substances; is that true?  
 4 A. It is.  
 5 Q. Okay. But in terms of the  
 6 entire HBC warehouse, the pharmaceutical and  
 7 controlled substances part of that warehouse  
 8 was a relatively small part of the entire  
 9 warehouse; is that true?  
 10 A. That's correct.  
 11 Q. Okay. I asked you if you'd had  
 12 any, I think, training or experience prior to  
 13 HBC with -- dealing with distribution of  
 14 pharmaceuticals or controlled substances, and  
 15 you said you had not, correct?  
 16 A. That's correct.  
 17 Q. Do you recall any education --  
 18 and I'll ask you a little bit about your  
 19 education here in a second, but had you had  
 20 any education concerning Federal laws or  
 21 regulations concerning controlled substances?  
 22 MR. KOBRIN: Object to form.  
 23 Do you mean formal education or job  
 24 training, anything?  
 25 MR. BARTON: Well, yeah. I

Page 15

1 mean, really anything.  
 2 BY MR. BARTON:  
 3 Q. Anything you would consider  
 4 education, whether it be formal education or  
 5 education through job training or anything.  
 6 A. Prior to getting to HBC?  
 7 Q. Correct.  
 8 A. No.  
 9 Q. Let's -- let me ask a little  
 10 bit about your education quickly, just -- it  
 11 appears you graduated from Penn State with a  
 12 Bachelor of Science in marketing; is that  
 13 right?  
 14 A. It is.  
 15 Q. With a minor in business  
 16 logistics?  
 17 A. Uh-huh.  
 18 Q. And that was 1997?  
 19 A. That's correct.  
 20 Q. Okay. And then after entering  
 21 the workforce, it appears you got an M.B.A.  
 22 from University of Pittsburgh, correct?  
 23 A. I did.  
 24 Q. That was in 2008?  
 25 A. It was.

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1 Q. Okay. So did you leave work to  
 2 be a full-time student in the M.B.A., or were  
 3 you able to do that while working at Giant  
 4 Eagle?  
 5 A. I took night classes while  
 6 working at Giant Eagle.  
 7 Q. Okay. In your role as  
 8 distribution operations manager, did you  
 9 directly supervise managers underneath you,  
 10 so to speak?  
 11 A. I did.  
 12 Q. And how many managers were  
 13 under you at HBC?  
 14 MR. KOBRIN: Object to form.  
 15 BY MR. BARTON:  
 16 Q. How many managers did you  
 17 directly supervise?  
 18 A. I'm trying to think. I think  
 19 there was a minimum of three.  
 20 Q. Did any of those managers have  
 21 exclusive responsibilities to the  
 22 pharmaceutical area of the warehouse?  
 23 A. Not that I can remember.  
 24 Q. Okay. Yeah, I just wondered  
 25 if -- if there was someone who kind of had

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1 that role who you supervised, but you don't  
 2 recall that being the way managerial  
 3 responsibilities were divided underneath you?  
 4 A. No.  
 5 Q. Okay. Let me just ask you  
 6 about the physical setup for you at the HBC  
 7 warehouse.  
 8 I assume your -- you spent your  
 9 days at the warehouse, correct?  
 10 A. That's correct.  
 11 Q. And did you have an office  
 12 there on site?  
 13 A. I did.  
 14 Q. And was that an office that,  
 15 you know, kind of had walls and a door, or  
 16 was it just an area?  
 17 A. It was a walls-and-door office.  
 18 Q. Okay. Like a full-on office?  
 19 A. Full-on office.  
 20 Q. All right. And you had a  
 21 computer?  
 22 A. I did.  
 23 Q. I assume you had an office  
 24 phone?  
 25 A. I did.

Page 18

1 Q. The computer that you had, was  
2 that like a desktop computer with a monitor,  
3 or did you just use a laptop?  
4 A. I can't recall. I think it  
5 might have been a laptop, but I can't recall.  
6 Q. Okay. I assume, but you tell  
7 me if -- otherwise, that your computer was  
8 linked or networked to a company network of  
9 some kind?  
10 A. I would assume, yes.  
11 Q. Yeah. And for e-mail  
12 communications, did you occasionally e-mail  
13 people through the course of your work?  
14 A. I did.  
15 Q. And was that -- if you recall,  
16 did you use -- did you and the company use an  
17 Outlook, Microsoft Outlook-based system for  
18 e-mail, or was it some other e-mail provider,  
19 if you recall?  
20 A. I believe it was Outlook.  
21 Q. And likewise, for word  
22 processing, if you worked on documents and  
23 drafted or edited and sent documents, word  
24 processing, did you use Microsoft Word there,  
25 do you recall?

Page 19

1 A. Yes.  
2 Q. Okay. Was there -- in addition  
3 to any e-mails that you might use in the  
4 course of your work, was there also a company  
5 intranet, if you will, where you could do  
6 instant messaging directly to other employees  
7 without using e-mail?  
8 A. I believe there was.  
9 Q. Okay. Is that -- do you know  
10 what -- do you know what that -- did it have  
11 a name?  
12 A. I don't recall.  
13 Q. Okay. Was that something that  
14 you often used, if you recall?  
15 A. I don't think I used it too  
16 much.  
17 Q. Was there any other way,  
18 besides direct face-to-face conversations  
19 with people or using the office telephone or  
20 using e-mail or the instant messaging  
21 function, if you used that, were there any  
22 other ways that you communicated with other  
23 people at HBC?  
24 A. I think we communicated with  
25 supervisors over a walkie-talkie system.

Page 20

1 Q. Okay. And so that -- that was  
2 just for kind of talking to people who might  
3 be in another part of the warehouse far  
4 enough away that you can't have a  
5 face-to-face conversation, but you're just  
6 having kind of an immediate communication  
7 with them that way?  
8 A. That's correct.  
9 Q. All right. Any other ways you  
10 can think of? I'm just trying to understand  
11 what all those were.  
12 A. I think there might have been  
13 an intercom, so if we had to call somebody to  
14 the office there was an intercom that would  
15 communicate a message across the warehouse.  
16 Q. Okay. How many offices like  
17 yours were there at the HBC warehouse?  
18 MR. KOBRIN: Object to form.  
19 A. You mean where other people  
20 would also perform work that had walls and  
21 doors?  
22 BY MR. BARTON:  
23 Q. Yeah.  
24 A. Okay. My recollection, one,  
25 two, three, four -- we had four on the same

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1 kind of platform and location where I was,  
2 and then there was -- there were two others  
3 in the center of the warehouse that served as  
4 an inventory warehouse office.  
5 Q. Okay. And who were the people  
6 who had the other four -- or the other three,  
7 I guess. There were four you said in your  
8 area.  
9 A. Uh-huh.  
10 Q. Who were the other people and  
11 like, kind of what were their titles? Just  
12 getting a sense of who --  
13 A. We had a maintenance supervisor  
14 who had his own office. There was an office  
15 administrator. Our HR department had an  
16 office and our payroll support had an office.  
17 And I recollect we also had -- I want to say  
18 a receptionist. She had an office as well.  
19 MR. BARTON: Okay.  
20 (HBC-Rogos Deposition Exhibit 2  
21 marked.)  
22 BY MR. BARTON:  
23 Q. I'm going to hand you a series  
24 of documents and just ask you questions about  
25 them, and that's how we'll largely proceed

<p style="text-align: right;">Page 22</p> <p>1 here.</p> <p>2 First of all, I'll hand you</p> <p>3 what we marked as Exhibit 2. I may not have</p> <p>4 many questions about this. This is a</p> <p>5 document that was produced by HBC. The</p> <p>6 metadata associated with the document on the</p> <p>7 first page seems to suggest it was created</p> <p>8 perhaps before you came to HBC, in March of</p> <p>9 2013.</p> <p>10 So I point that out only to</p> <p>11 suggest -- my first question about this is,</p> <p>12 is this a document that you recognize or</p> <p>13 recall seeing?</p> <p>14 MR. KOBRIN: Do you know who's</p> <p>15 the custodian on it?</p> <p>16 MR. BARTON: I don't.</p> <p>17 MR. KOBRIN: You don't, okay.</p> <p>18 MR. BARTON: If it's not</p> <p>19 listed, and it isn't, I don't know who</p> <p>20 it is.</p> <p>21 MR. KOBRIN: So it may not be</p> <p>22 from his custodial file either. He</p> <p>23 may have never seen it.</p> <p>24 MR. BARTON: Yeah, which is</p> <p>25 really my question. And if he hasn't,</p>	<p style="text-align: right;">Page 24</p> <p>1 document -- the Bates number on the bottom</p> <p>2 right of the first page of this document is</p> <p>3 HBC_MDL00136653; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. This is a multiple-page</p> <p>6 document that has an e-mail on the -- what</p> <p>7 appears to be an e-mail on the first page</p> <p>8 from a Jeanine Singer to several people.</p> <p>9 You are listed as one of the cc</p> <p>10 recipients of this, correct?</p> <p>11 A. Looks like it.</p> <p>12 Q. And the date was Tuesday, the</p> <p>13 12th of November 2013, correct?</p> <p>14 A. Yes.</p> <p>15 MR. KOBRIN: If I may, Eric, I</p> <p>16 object to this. Per our agreement</p> <p>17 prior to this deposition, plaintiffs'</p> <p>18 counsel agreed to tell us the topics</p> <p>19 about which you would be talking and</p> <p>20 questioning Mr. Rogos, and this</p> <p>21 appears to be a document that is about</p> <p>22 McKesson's suspicious order monitoring</p> <p>23 program, and I don't think that falls</p> <p>24 into any of the topics that you</p> <p>25 advised us in advance you'd be asking</p>
<p style="text-align: right;">Page 23</p> <p>1 then I don't have any other questions.</p> <p>2 A. This is the first time I've</p> <p>3 seen this.</p> <p>4 BY MR. BARTON:</p> <p>5 Q. Okay. If you had authored this</p> <p>6 or edited it or something, I'd have more</p> <p>7 questions about it, but if you've never seen</p> <p>8 it before, I don't need to have you answer</p> <p>9 any other questions about it because you</p> <p>10 haven't seen before. Okay.</p> <p>11 And from looking at that real</p> <p>12 quick, you can't discern who may have</p> <p>13 authored it, or can you, just based on having</p> <p>14 worked at HBC?</p> <p>15 MR. KOBRIN: If you can tell.</p> <p>16 You don't need to speculate.</p> <p>17 A. Yeah, unless there's a name at</p> <p>18 the end, I can't tell.</p> <p>19 MR. BARTON: Okay. That's</p> <p>20 fine.</p> <p>21 (HBC-Rogos Deposition Exhibit 3</p> <p>22 marked.)</p> <p>23 BY MR. BARTON:</p> <p>24 Q. I've handed you what we've</p> <p>25 marked as Exhibit 3. And this is a</p>	<p style="text-align: right;">Page 25</p> <p>1 Mr. Rogos about.</p> <p>2 MR. BARTON: I don't have many</p> <p>3 questions about this document, but I</p> <p>4 don't -- I don't believe it's outside</p> <p>5 the scope of us providing you with</p> <p>6 topics, including asking about</p> <p>7 suspicious order monitoring programs.</p> <p>8 So I'm not going to ask him</p> <p>9 about the details of McKesson's</p> <p>10 program, but that's -- so, I mean, I</p> <p>11 have a few questions I will ask him</p> <p>12 about this document.</p> <p>13 MR. KOBRIN: You can ask. I</p> <p>14 don't think it falls in any of the six</p> <p>15 topics you advised us of in advance.</p> <p>16 MR. BARTON: That's fine. You</p> <p>17 can make that objection. It will be</p> <p>18 reserved.</p> <p>19 BY MR. BARTON:</p> <p>20 Q. First, you confirmed your name</p> <p>21 is shown as one of the cc recipients,</p> <p>22 correct?</p> <p>23 A. It is.</p> <p>24 Q. Do you recall the call that</p> <p>25 this e-mail appears to be referencing? It</p>

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1 says for our call at 9:00 Pacific Time, 12:00  
2 Eastern Time.

3 Do you recall the call that may  
4 have followed this e-mail?

5 A. No.

6 Q. Okay. And then the attachment  
7 to the e-mail, which appears to relate to a  
8 controlled substance monitoring program of  
9 McKesson, do you recall reviewing that  
10 attachment as you sit here today?

11 A. No.

12 Q. Okay. Do you recall having any  
13 kind of communications with representatives  
14 of McKesson about their controlled substance  
15 monitoring program?

16 A. No.

17 Q. Do you recall having attended a  
18 DEA distributor conference in late 2013?

19 A. No.

20 Q. Okay. Do you recall attending  
21 a conference with Joe Millward where there  
22 were presentations given about the  
23 distribution of controlled substances and  
24 regulations applicable to that?

25 A. I do.

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1 Q. Okay. Do you recall when you  
2 attended that presentation?

3 A. I believe it was October of  
4 2014.

5 Q. October of 2014. Okay. Well,  
6 let me show you -- I'll hand to you  
7 Exhibit 4.

8 (HBC-Rogos Deposition Exhibit 4  
9 marked.)

10 BY MR. BARTON:

11 Q. Exhibit 4 is a document that  
12 begins with a Bates number in the lower  
13 right-hand corner of HBC\_MDL00136141, and  
14 it's many pages, because it has a couple of  
15 attachments. I think the last page of this  
16 exhibit is HBC\_MDL00136214.

17 Is that correct?

18 A. Uh-huh, yes.

19 Q. So on the first page of this  
20 document, Exhibit 4, it appears to be an  
21 e-mail from Joe Millward to several people.  
22 You're not listed among the recipients of  
23 this e-mail, correct?

24 A. No.

25 Q. But he does reference you in

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1 it, and I want to direct your attention to  
2 that, just in terms of trying to place the  
3 timing of that conference.

4 A. Yeah.

5 Q. Do you see that this is an  
6 e-mail that appears to have been sent Friday,  
7 13th of December 2013?

8 A. I do.

9 Q. And Mr. Millward is saying in  
10 the body of the e-mail: In order to help  
11 guide the discussion for next Wednesday's  
12 meeting, I have attached two presentations  
13 that were given at the DEA's distributor  
14 conference that Matt Rogos and I attended.

15 Do you see that?

16 A. I do.

17 Q. Okay. Does that refresh your  
18 recollection about the timing of that  
19 conference, whether it was 2014 or 2013?

20 A. Yeah, I was mistaken. It was  
21 2013.

22 Q. Okay. So sometime in the late  
23 fall, I guess, of 2013 is when you believe  
24 you attended that conference with Joe  
25 Millward?

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1 A. Correct.

2 Q. And do you have a recollection  
3 of at least being there and some of what you  
4 did attending that conference?

5 A. I do.

6 Q. So the attachments to this  
7 e-mail from Mr. Millward have basically two  
8 presentations; one is a number of pages  
9 called Distributor Initiative, A National  
10 Perspective, and then if you flip through to  
11 almost the end of the exhibit, there's just a  
12 handful of pages, really three or four pages,  
13 that's a presentation called ARCOS Reporting.

14 Do you see that?

15 A. I do.

16 Q. Okay. First of all, where was  
17 this conference?

18 A. I believe it was outside of DC  
19 in Maryland.

20 Q. And actually, I guess, there's  
21 a date on this first presentation of  
22 October 22, 2013. Does that -- does that  
23 sound consistent now?

24 A. It does.

25 Q. Okay. Was -- and at this point

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1 in time, and I guess earlier in my  
 2 questioning I think you might have given me a  
 3 start date of around November of 2013 with  
 4 HBC. This of course was in late October.  
 5 Do you recall whether at the  
 6 time you attended this conference with  
 7 Mr. Millward, had you started as distribution  
 8 operations manager for HBC?  
 9 A. I don't believe.  
 10 Q. Was attending this conference  
 11 something you did, though, in anticipation of  
 12 beginning your work for HBC?  
 13 A. I believe so.  
 14 Q. So in some respects, was  
 15 attending this conference with Mr. Millward  
 16 part of your initial education and training  
 17 on some of the issues that were new to you  
 18 and applicable to the distribution of  
 19 controlled substances?  
 20 A. Uh-huh.  
 21 Q. Okay. Yes?  
 22 A. Yes.  
 23 Q. Do you have any recollection of  
 24 being at the conference and actually watching  
 25 these presentations or listening to them?

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1 A. I do.  
 2 Q. Okay. Were there other  
 3 presentations? Mr. Millward just attached  
 4 two, but were there other presentations at  
 5 the conference as well?  
 6 A. Not that I can recall.  
 7 Q. Okay. Was this -- was your  
 8 attendance at this conference your first  
 9 significant exposure to regulatory compliance  
 10 issues facing distributors of controlled  
 11 substances?  
 12 A. It was.  
 13 Q. Yes?  
 14 A. Yes.  
 15 Q. Okay. Sorry --  
 16 A. It was, yes.  
 17 Q. Thanks.  
 18 Do you recall leaving this  
 19 conference with any takeaways or realizations  
 20 of something that you thought was important  
 21 to know going back and starting work for HBC?  
 22 MR. KOBRIN: Object to form.  
 23 A. I didn't realize how much the  
 24 writing of prescriptions was kind of rampant  
 25 on a lot of these prescription medications.

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1 Primarily, I think they focused on Florida.  
 2 BY MR. BARTON:  
 3 Q. And when you say the writing of  
 4 prescriptions on these medications was  
 5 rampant, you're referring to opioid narcotic  
 6 pain medications?  
 7 A. I believe that's what the  
 8 majority of the subject matter was at the  
 9 conference.  
 10 Q. Okay. Yeah.  
 11 So the conference focused on  
 12 opioids primarily from the distributor  
 13 perspective; is that right?  
 14 A. I believe so. Yeah, I can kind  
 15 of look through to refresh my memory.  
 16 Q. So having not worked in the  
 17 pharmaceutical industry or the distribution  
 18 of pharmaceuticals prior to this, one  
 19 takeaway that you recall is realizing perhaps  
 20 for the first time just how rampant the  
 21 opioid prescribing was in the United States;  
 22 is that right?  
 23 A. Correct.  
 24 Q. And you recall Florida being a  
 25 big subject of discussion about what was

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1 happening there?  
 2 A. Again, I believe it was.  
 3 Q. Okay. Any other takeaways that  
 4 you recall sitting here? I know it's been  
 5 over five years, but...  
 6 A. I know I sat next to Joe, and I  
 7 had a lot of questions for him since he was  
 8 in the business longer than I was, and asked  
 9 him if we had concerns. And he said that we  
 10 had SOPs and processes in place that -- on  
 11 several different levels with our  
 12 distribution that would prevent us from  
 13 getting in a situation like this.  
 14 Q. Okay. And Joe at the time,  
 15 what did you understand his position to be in  
 16 the company?  
 17 A. The first time I'd met him at  
 18 this conference?  
 19 Q. Uh-huh.  
 20 A. I didn't really know his exact  
 21 position, but I just knew that he was -- or  
 22 he had a role in the pharmacy department  
 23 within Giant Eagle.  
 24 Q. Okay. And did you later come  
 25 to learn that he also, as part of his role

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1 within the pharmacy side, it had to do with  
2 compliance issues? He had some role with  
3 compliance?  
4 A. I believe.  
5 Q. Okay. Do you recall any  
6 conversations with Joe at or shortly after  
7 this conference where he may have relayed to  
8 you any takeaways or concerns or realizations  
9 he gleaned from this conference?  
10 MR. KOBRIN: Object to form,  
11 speculation.  
12 A. I do not.  
13 BY MR. BARTON:  
14 Q. And I'm not asking you to tell  
15 me what was in his head. I'm asking, do you  
16 recall anything he told you about significant  
17 things that he learned at this conference?  
18 A. I do not.  
19 Q. Okay. Apart from what either  
20 of you kind of took away from it, do you  
21 recall discussing with Joe, either at the  
22 conference or after, any specific plans or  
23 next steps for HBC as a result of what you  
24 both heard at this conference?  
25 A. I can't recall specifically,

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1 no.  
2 Q. If you turn to a page in the  
3 first presentation on this document, it's the  
4 page that has 2012 oxycodone state rankings,  
5 and so it's HBC\_MDL00136189. It's about  
6 two-thirds of the way through.  
7 Do you see that?  
8 A. Uh-huh.  
9 Q. So that page starts several  
10 pages of state rankings of different narcotic  
11 pain medications.  
12 Do you see that?  
13 A. I do.  
14 Q. If you turn to the second one,  
15 2012 hydrocodone state rankings.  
16 Do you see that?  
17 A. I do.  
18 Q. Do you see, as you mentioned, I  
19 believe, on the previous page, Florida is the  
20 number 1 in retail pharmacies for oxycodone.  
21 Florida also appears on the hydrocodone state  
22 rankings as number 5.  
23 Do you see that Ohio appears as  
24 one of the top ten states for hydrocodone  
25 from retail pharmacies? Do you see that?

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1 A. I do.  
2 Q. And you understood, of course,  
3 that HBC was at that time distributing  
4 hydrocodone combination products to retail  
5 pharmacies in Ohio, correct?  
6 MR. KOBRIN: Object to form.  
7 A. I do.  
8 BY MR. BARTON:  
9 Q. You did understand that?  
10 A. I did understand, correct.  
11 Q. Maybe by this point in time in  
12 2012, Giant Eagle may not have gotten into  
13 Indiana by then. Had they?  
14 A. 2013, you mean?  
15 Q. Right. Well, this is actually  
16 just saying the 2012 ranking.  
17 A. For 2012?  
18 Q. Yeah. Are there any other  
19 states on that top ten list besides Ohio  
20 where Giant Eagle would have been  
21 contributing hydrocodone combination products  
22 to retail pharmacies?  
23 A. No.  
24 Q. Okay. You see that Ohio is  
25 actually among the top ten states on this

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1 list for all four of the drug compounds that  
2 are ranked there.  
3 Do you see that?  
4 MR. KOBRIN: Object to form and  
5 object to relevance. I don't think  
6 HBC was distributing all of these at  
7 that time or anytime.  
8 BY MR. BARTON:  
9 Q. I'm just asking if you see  
10 what's reflected on the presentation that  
11 Ohio is kind of one of the top ten states on  
12 all of those drugs.  
13 Do you see that?  
14 A. Yes, I do.  
15 Q. Do you recall having an  
16 understanding at this conference, given that  
17 you were just in the process of getting to  
18 know HBC -- do you recall having an  
19 understanding of what drugs and drug  
20 combination products HBC was distributing at  
21 that point in time when you were at this  
22 conference?  
23 MR. KOBRIN: Object to form.  
24 A. No.  
25 ///

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1 BY MR. BARTON:  
 2 Q. Okay. Is that something that,  
 3 as distribution operations manager, you later  
 4 came to have an understanding of, of kind of  
 5 what opioid and narcotic controlled  
 6 substances HBC was distributing?  
 7 A. It was, yes.  
 8 (HBC-Rogos Deposition Exhibit 5  
 9 marked.)  
 10 BY MR. BARTON:  
 11 Q. And yeah, it's good to keep  
 12 them, as you are, in front of you because  
 13 there may be occasions where I may refer back  
 14 to something as we go. That just happens  
 15 sometimes. So I'm glad you're keeping those  
 16 in a nice pile there.  
 17 (Comments off the stenographic  
 18 record.)  
 19 BY MR. BARTON:  
 20 Q. Okay. I hand you Exhibit 5.  
 21 This is a multiple-page document, Bates  
 22 number on the bottom right, beginning page is  
 23 HBC\_MDL00140166; is that right?  
 24 A. Yes.  
 25 Q. Okay. And then the last page

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1 of this exhibit, bottom right, Bates number  
 2 HBC\_MDL00140204; is that right?  
 3 A. Correct.  
 4 Q. Okay. This document, the first  
 5 two pages are -- appear to be an e-mail chain  
 6 in which you are a participant; is that true?  
 7 A. It is.  
 8 Q. Okay. And then the remainder  
 9 of the exhibit appears to be an attachment  
 10 that was included within this e-mail chain at  
 11 some point, which I'll ask you a little bit  
 12 about here in a second.  
 13 But let me ask you: Was there  
 14 a decision -- or do you recall a decision  
 15 being made in or around January of 2014 at  
 16 HBC to move forward with seeking VAWD  
 17 certification for the HBC warehouse?  
 18 A. Yes.  
 19 Q. Okay. And were you a part of  
 20 that decision-making process of deciding to  
 21 pursue VAWD certification?  
 22 A. More than likely, yeah, because  
 23 I was at HBC, yes.  
 24 Q. Right. In general terms, what  
 25 is your understanding as you sit here today

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1 of what VAWD certification was and why it was  
 2 something HBC was interested in?  
 3 MR. KOBRIN: Object to form.  
 4 A. My belief is that we needed the  
 5 VAWD certification in order to distribute to  
 6 our company stores and pharmacies in -- that  
 7 were currently in Maryland and that were  
 8 going to be in Indiana.  
 9 BY MR. BARTON:  
 10 Q. And if you recall, was it your  
 11 understanding that Giant Eagle was seeking to  
 12 expand into those states and -- but in order  
 13 to do so and distribute to pharmacies from a  
 14 warehouse, distribute pharmaceuticals and  
 15 controlled substances, that the warehouse had  
 16 to have this VAWD certification?  
 17 A. At the time we made the  
 18 decision, or at least started to consider  
 19 getting into VAWD in January 2014, we already  
 20 had Giant Eagle pharmacies in Maryland.  
 21 Q. Okay.  
 22 A. I can't recall the exact time  
 23 when the Giant Eagles were going to start  
 24 being built in Indianapolis, but I do  
 25 remember the VAWD certification from -- from

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1 our, just understanding was not something  
 2 that you could get done in 30 to 60 days.  
 3 It was a -- like a six- to  
 4 nine-month, if not a year, process to compile  
 5 the SOPs, put them into a format that the  
 6 VAWD National Board -- Association of Boards  
 7 of Pharmacy wanted them in and make sure that  
 8 we had essentially everything in place when  
 9 they not only reviewed the documents but came  
 10 in and did an audit of the pharmacy.  
 11 Q. Okay. So -- and we've been  
 12 referring to VAWD. VAWD is actually an  
 13 acronym spelled, all caps, capital V, capital  
 14 A, W-D, correct?  
 15 A. Correct.  
 16 Q. And that standards for Verified  
 17 Accredited Wholesale Distributors; is that  
 18 right?  
 19 A. Yes.  
 20 Q. And that is a program that is  
 21 run by the National Association of Boards of  
 22 Pharmacy; is that right?  
 23 A. Correct.  
 24 Q. And the National Association of  
 25 Boards of Pharmacy sometimes is referred to

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1 by its acronym, NABP, correct?

2 A. Correct.

3 Q. The -- is it your understanding

4 then that not every state has, through its

5 own state board of pharmacy -- not every

6 state has adopted a regulation or requirement

7 that pharmacies in that state can only

8 receive products from VAWD-accredited

9 warehouses; is that true?

10 A. I believe, yeah, from my

11 recollection there were only certain states

12 that needed the VAWD certification for us to

13 ship to.

14 Q. Right. But what you came to

15 understand is that if the HBC warehouse, at

16 least, was going to ship to pharmacies in

17 Maryland or Indiana, that those states would

18 require HBC's warehouse to be VAWD

19 accredited, right?

20 A. Correct.

21 Q. And you explained that in order

22 to get that accreditation from the NABP, that

23 would be a process that there would be an

24 application and reviews and it would take

25 some time to get that accreditation, correct?

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1 A. Correct.

2 Q. But HBC, and you as a part of

3 HBC, the decision was made to go ahead and

4 seek that accreditation, correct?

5 A. It was, correct.

6 Q. Okay. And that process more or

7 less began in or around January of 2014 as

8 you recall?

9 A. Yes.

10 Q. Okay. As part of that process

11 of getting ready to apply, did you understand

12 and recognize that one of that -- one part of

13 that process was going to have to be

14 gathering and reviewing and perhaps adding to

15 the written policies and procedures that HBC

16 had in place for its distribution of

17 controlled substances?

18 A. Yes.

19 MR. KOBRIN: Object to form.

20 BY MR. BARTON:

21 Q. In this Exhibit 5, on the first

22 page, there's several e-mails that appear to

23 be reflected there. Down at the bottom of

24 this page -- well, actually, let's turn over

25 to the second page, just so we kind of walk

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1 through real quick for the context.

2 The first e-mail doesn't have a

3 date associated with it on this printout, but

4 the first e-mail appears to be an e-mail from

5 you to Greg, and would that have been Greg

6 Carlson?

7 A. Yes.

8 Q. You write: Should we begin to

9 talk about moving the VAWD certs forward in

10 Maryland and Indiana since it appears that

11 there may be justification now?

12 Correct?

13 A. Yes.

14 Q. And that is something you wrote

15 to Greg Carlson at whatever date it was,

16 probably in January?

17 A. Yes.

18 Q. Okay. And the justification,

19 do you recall kind of what you understood the

20 justification to be that you were referring

21 to there?

22 A. Again, I think it was the

23 opening of -- or I guess proposed opening of

24 several stores in Indiana as well as I

25 thought that there was a date, and I can't

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1 recall what it was, but I thought there was

2 a -- there was a timeline in Maryland that we

3 needed to be VAWD certified in order to ship

4 to the stores we had down there.

5 Q. Right. And one option, I

6 guess, for Giant Eagle and HBC would have

7 been to not seek VAWD certification at all,

8 but in that event, those stores in Maryland

9 or Indiana, those pharmacies, retail

10 pharmacies, they wouldn't have then been able

11 to get product from HBC, correct?

12 A. Correct.

13 Q. So whatever, you know, cost or

14 economic benefits there were to Giant Eagle

15 and to HBC of having its retail pharmacies

16 supplied through HBC, that -- those benefits

17 would have been lost if the HBC warehouse

18 didn't obtain the VAWD certification,

19 correct?

20 MR. KOBRIN: Object to form, no

21 foundation.

22 A. Yeah, I didn't see the specific

23 return on investment, but we wouldn't be able

24 to ship to Maryland and Indiana if we didn't

25 have the VAWD certification.

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1 BY MR. BARTON:  
2 Q. Right.  
3 The -- moving up the e-mails,  
4 just the conversation here, the next e-mail  
5 above, which the heading of it is on the  
6 first page and then the text is on the second  
7 page of this exhibit, but it's from Greg  
8 Carlson back to you and others, Mike Bianco  
9 and Joe Millward and George Chunderlik,  
10 correct?  
11 A. Correct.  
12 Q. And that's on Wednesday,  
13 January 22, 2014, true?  
14 Do you see that?  
15 A. Yes.  
16 Q. So Greg appears to write, on  
17 the second page is where the text is: Yes, I  
18 would definitely like to step this up. Who  
19 on your end would be part of this project?  
20 All the folks on this e-mail would be the key  
21 pharmacy team.  
22 Do you see that?  
23 A. I do.  
24 Q. And do you think that -- do you  
25 agree with what Mr. Carlson was saying there,

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1 that the people he put on that e-mail would  
2 at that point in time kind of be the key  
3 pharmacy team for that project?  
4 A. I do.  
5 Q. Okay. The next e-mail up the  
6 conversation is later that same day, January  
7 22nd, from Joe Millward, and he writes that  
8 part of the process is having all SOPs in one  
9 location. We may have to create a number of  
10 SOPs from scratch.  
11 Do you see that?  
12 A. I do.  
13 Q. And what -- SOPs, what's he  
14 referring to there?  
15 MR. KOBRIN: Object to form.  
16 A. I can only guess standard  
17 operating procedures.  
18 BY MR. BARTON:  
19 Q. Okay. Yeah. And do you -- do  
20 you believe you received that e-mail as part  
21 of this e-mail conversation?  
22 A. I can't tell because -- on the  
23 sheet, but I would assume that he probably  
24 hit "reply to all" just to make sure that,  
25 again, the key pharmacy team was all aware

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1 that all SOPs needed to be in one location.  
2 Q. Okay. And there's an e-mail  
3 then above his that again doesn't have the  
4 heading and the date, but there's a  
5 sentence -- a couple of sentences there with  
6 your name below it, and it says: I think we  
7 have a library of SOPs at HBC for Rx. I'll  
8 start to compile a VAWD file for the info  
9 hat -- and it's probably that -- we have,  
10 signed Matt.  
11 Is that you?  
12 A. Yes.  
13 Q. And did you write that?  
14 A. I did.  
15 Q. Okay. And the -- and likewise,  
16 you assume you probably hit "reply all" and  
17 sent this to the key pharmacy team that was  
18 discussing this at that time?  
19 A. I'm assuming so, yes.  
20 Q. Okay. And do you recall then  
21 starting to, you know, compile a VAWD file  
22 for the -- for the SOPs and the other  
23 information that you thought you'd need for  
24 VAWD?  
25 A. I do.

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1 Q. Okay. Did you -- did you go  
2 and seek out the library of SOPs, if you  
3 will, kind of the collection of standard  
4 operating procedures as part of that process  
5 to start your VAWD file?  
6 A. I did.  
7 Q. And do you have a recollection  
8 today of where you found that library, like  
9 how it existed? Hard copy or on -- on the  
10 computer?  
11 A. I know we had hard copies in my  
12 office. I kept them in my office.  
13 Q. Okay. Were they in like a  
14 notebook, a binder or something?  
15 A. It was a three-ring binder.  
16 Q. Okay. Were they also available  
17 on some -- in some folder on your computer  
18 that you had access to, maybe a networked  
19 folder?  
20 A. I can't recall specifically.  
21 Q. Okay. The top e-mail on this  
22 document, before we leave it, is -- appears  
23 to be a meeting organization message where  
24 Greg Carlson is listed as the organizer and a  
25 number of people, including you, are listed

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1 as required attendees.  
 2 Do you see that?  
 3 A. I do.  
 4 Q. And so it's describing a  
 5 conference call with a number and an access  
 6 code for February 6th, 2014.  
 7 Do you see that?  
 8 A. I do.  
 9 Q. And do you have any  
 10 recollection today of that particular  
 11 conference call?  
 12 A. No.  
 13 Q. Okay. Do you believe it likely  
 14 went forward consistent with this effort to  
 15 begin the VAWD certification process?  
 16 A. Yes.  
 17 Q. And did you probably have more  
 18 than one conference call along the way like  
 19 this, where people who were key participants  
 20 in the process got together to talk about the  
 21 project?  
 22 A. We did.  
 23 Q. Okay. Just looking at the  
 24 attachment to this exhibit, which follows  
 25 those two pages of e-mails, do you see that

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1 this is a document that is entitled Policies  
 2 and Procedures Guidance Checklist for the  
 3 National Association Board of Pharmacy, VAWD  
 4 Program.  
 5 Do you see that?  
 6 A. Yes.  
 7 Q. Okay. And do you recall  
 8 looking at this document at some point in  
 9 time in the process of trying to prepare for  
 10 seeking VAWD certification?  
 11 A. I do.  
 12 Q. Okay. And is it a document  
 13 that you recall, you know, maybe looking at  
 14 more than one time, kind of as a reference to  
 15 try to prepare to meet the VAWD requirements?  
 16 A. We used it quite extensively to  
 17 prepare.  
 18 Q. Okay. Did you ever personally  
 19 edit this document, in other words, you know,  
 20 go into it and make notes? And we'll see a  
 21 version of it where there have been notes  
 22 made, and I'll ask you then if you made them.  
 23 But I'm just recalling -- I'm just asking you  
 24 now if you recall ever -- you actually ever  
 25 going in and editing this document?

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1 MR. KOBRIN: Do you mean hand  
 2 notes or --  
 3 MR. BARTON: Typewritten notes.  
 4 We'll see in the next exhibit, I  
 5 think, but I'm just --  
 6 A. I don't recall making any edits  
 7 to the specific content, no.  
 8 MR. BARTON: Okay. All right.  
 9 (HBC-Rogos Deposition Exhibit 6  
 10 marked.)  
 11 BY MR. BARTON:  
 12 Q. I'm handing you Exhibit 6.  
 13 This is also a multiple-page document and the  
 14 first page is HBC\_MDL00180061.  
 15 Do you see that?  
 16 A. I do.  
 17 Q. And then the last page of this  
 18 exhibit, the Bates number is HBC\_MDL00052110;  
 19 is that right -- or did I pull it wrong? I'm  
 20 sorry, I read it wrong. I looked at the  
 21 wrong one.  
 22 The last page is  
 23 HBC\_MDL00180088; is that right?  
 24 A. Correct.  
 25 Q. Okay.

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1 MR. BARTON: Did I do that  
 2 right?  
 3 MS. WICKLUND: Uh-huh.  
 4 BY MR. BARTON:  
 5 Q. Okay. In Exhibit 6, the  
 6 e-mails -- again, this is similar to what we  
 7 just saw in Exhibit 5. Does this document  
 8 have about two pages of kind of e-mail  
 9 conversation followed by that same VAWD  
 10 Policies and Procedures Guidance Checklist?  
 11 A. Yes.  
 12 Q. Okay. Looking at the e-mails  
 13 then, they appear to be early April of 2014,  
 14 correct?  
 15 A. Yes.  
 16 Q. And if you look on the second  
 17 page, kind of the bottom of the e-mail chain,  
 18 it starts with an e-mail from Dolly Stevens  
 19 that is on April 4, 2014 and she just says:  
 20 Attached please find the agenda for Monday's  
 21 meeting.  
 22 Correct?  
 23 A. Correct.  
 24 Q. And I think you are -- yeah,  
 25 your name appears among a number of people,

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1 and the subject is a VAWD status meeting of  
 2 April 7, right?  
 3 A. Correct.  
 4 Q. Okay. And Dolly Stevens, she  
 5 lists her title as Project Manager, Supply  
 6 Chain/Logistics Technologies, Giant Eagle,  
 7 correct?  
 8 A. Yes.  
 9 Q. I assume she kind of became  
 10 part of the team, so to speak, that was going  
 11 to be pursuing the VAWD certification for  
 12 HBC, right?  
 13 A. Yes.  
 14 Q. The next e-mail up the chain is  
 15 again from Dolly to the same group on Monday,  
 16 and she has in the body of that e-mail kind  
 17 of a chart with a little bit of a timeline,  
 18 correct?  
 19 A. Yes.  
 20 Q. And, first of all, looking at  
 21 this e-mail, I'm wondering if it refreshes  
 22 your recollection at all and if you remember  
 23 the April 7, 2014 VAWD status meeting?  
 24 A. Not the specifics, but I  
 25 remember we had a meeting, correct, yeah.

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1 Q. Okay. The first -- looking at  
 2 Dolly's timeline on the first page of this  
 3 exhibit, that first item says all documents  
 4 sent to Dolly with a target date of March 20,  
 5 2014.  
 6 Do you see that?  
 7 A. Uh-huh.  
 8 Q. And that March 20 would have  
 9 already occurred as of April 7, 2014,  
 10 correct?  
 11 A. Correct.  
 12 Q. So do you recall whether you --  
 13 whether you would have been one to send to  
 14 Dolly any documents relating to this VAWD  
 15 status meeting, such as the library of SOPs  
 16 that you had referenced in that earlier  
 17 e-mail?  
 18 A. More than likely, I would have  
 19 sent them to her, yes.  
 20 Q. Okay. Do you recall doing it?  
 21 Do you have any specific recollection of  
 22 doing it? I'm not -- I'm not suggesting  
 23 whether you did or didn't. I'm just asking  
 24 if you recall it.  
 25 A. I'm assuming I did, yeah.

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1 Yeah.  
 2 Q. Do you -- well, yeah, suffice  
 3 it to say, as part of this project, I'm just  
 4 trying to find out if you think that would  
 5 have been your role, because you had  
 6 referenced checking for the library of SOPs.  
 7 So do you think that's one thing you would  
 8 have done as part of getting this project  
 9 going --  
 10 A. Correct.  
 11 Q. -- was send her the policies  
 12 that you were able to get your hands on?  
 13 A. Right.  
 14 Q. Okay.  
 15 A. She was asked to coordinate  
 16 these types of meetings.  
 17 Q. Right. And everyone on the  
 18 team had various areas of responsibility or  
 19 interest. You, among others, would likely  
 20 have been the one to send to her the policies  
 21 and procedures that you could find for HBC?  
 22 A. Correct.  
 23 Q. Okay. And as you sit here, do  
 24 you have any specific recollection of any --  
 25 having any problems or difficulties

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1 completing that task for her?  
 2 A. Of sending her the SOPs?  
 3 Q. Yeah.  
 4 A. No.  
 5 Q. Okay. No.  
 6 Now, if we look at the  
 7 attachment to this exhibit, which again is  
 8 this policies and procedures checklist,  
 9 correct?  
 10 A. Correct.  
 11 Q. If we go through this, there  
 12 are places where there are some notes typed  
 13 in after certain checklists that identify  
 14 responsible people or sometimes identify  
 15 policies that appear to relate to the topic  
 16 being discussed, correct?  
 17 A. Correct.  
 18 Q. Okay. And do you -- so now  
 19 seeing those, do you recall whether you may  
 20 have ever entered any of those notes on this  
 21 document?  
 22 A. Yeah, I didn't remember it, but  
 23 I -- we used this as a checklist, and I would  
 24 write summary notes on where we were on the  
 25 different topics.

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1 Q. Okay. And who's we, when you  
2 say we did that?  
3 A. It was -- it would be myself,  
4 Dolly, and the Nancy that's referenced there  
5 was my administrative assistant at HBC. She  
6 was helping me out.  
7 Q. Okay. Would any of the three  
8 of you may have actually edited this document  
9 at times?  
10 A. The only thing that we would  
11 edit on the document was below the -- again,  
12 from my recollection, below the solid line.  
13 So, for instance, if you look  
14 on the licensing, it has, on page 68 -- you  
15 know, it has a licensing policy and  
16 procedures for detail with three processes  
17 there. We never edited any of that wording.  
18 Q. Okay.  
19 A. But we would edit under the  
20 portion where it says: List names of  
21 policies and procedures and documents that  
22 meet this requirement.  
23 And that's where we would list  
24 either who was responsible for it, the files  
25 that we had, the certifications or licenses

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1 for this instance, what files they were in,  
2 and then what states we had the licenses and  
3 certification.  
4 Q. Okay. Very good. Yeah. And  
5 thank you for that.  
6 And you're -- we're looking  
7 right now, as you said, at the page that is  
8 entitled Licensing and the Bates number page  
9 ends in 68.  
10 What about the check marks in  
11 those boxes? I think when I compared that to  
12 the earlier exhibit, I don't think any of the  
13 boxes in the earlier exhibit, Exhibit 5, had  
14 check marks in them, and some of these do and  
15 some don't. So I'm just wondering if you  
16 guys checked boxes as well.  
17 A. I don't recall specifically if  
18 we had the ability to check those.  
19 Q. Okay.  
20 A. We might have, but I don't  
21 recall.  
22 Q. For example, let's just --  
23 let's look at temperature and humidity  
24 controls on page 70. It's two more pages.  
25 Because the licensing one, all the boxes are

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1 checked. This one has some that are and some  
2 that aren't, so that's why I asked the  
3 question.  
4 A. Uh-huh.  
5 Q. On that -- on that page, there  
6 appear to be some of the boxes that are  
7 checked and some are not, and if you do flip  
8 back to Exhibit 5, the same page, I don't  
9 think there's any checks in any of the boxes.  
10 So I just...  
11 A. We must have been -- had the  
12 ability to edit at least the check marks.  
13 Q. Okay. That's what this  
14 document is called is kind of a guidance and  
15 checklist, I think, right, so that's kind of  
16 one way you can use this document is using it  
17 as a checklist, right?  
18 A. Correct.  
19 MR. KOBRIN: Do you want to  
20 take a break? We've been going about  
21 an hour, an hour ten.  
22 MR. BARTON: Yeah, that's fine.  
23 We can do it.  
24 THE VIDEOGRAPHER: Off the  
25 record at 2:12 p.m.

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1 (Recess taken, 2:12?p.m. to  
2 2:27 p.m.)  
3 THE VIDEOGRAPHER: We're back  
4 on the record at 2:27 p.m.  
5 BY MR. BARTON:  
6 Q. Okay. Mr. Rogos, a few more  
7 questions about Exhibit 6 that you have in  
8 front of you.  
9 As I'm flipping through the  
10 checklist, which as you've noted, this  
11 version has some edits made to it, and some  
12 of those edits are identifying responsible  
13 parties for a given topic and then others at  
14 times identify -- appear to identify  
15 documents that relate to the topic, correct?  
16 A. Correct.  
17 Q. And so if we turn to the  
18 inventory controls topic, which is page 8 of  
19 the document itself, Bates number page ending  
20 in 73, you see that?  
21 A. I do.  
22 Q. Okay. So the inventory  
23 controls section of this checklist has a  
24 couple of pages, and the first page is just  
25 kind of checklist stuff, and then the second

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1 page lists names of policies and responsible  
2 party. And the responsible party for  
3 inventory controls is Matt/Nancy.  
4 Do you see that?  
5 A. I do.  
6 Q. And that's referring to you,  
7 correct?  
8 A. It does.  
9 Q. And Nancy was your  
10 administrative assistant?  
11 A. She was.  
12 Q. And the two of you are named as  
13 the responsible party on many -- although not  
14 all, but many of these topics in this  
15 checklist.  
16 Did you see that?  
17 A. I did.  
18 Q. And that's consistent with your  
19 role as director of warehouse operations kind  
20 of having overall supervisory responsibility  
21 for the policies?  
22 A. Correct.  
23 Q. And the documents that are  
24 identified here on this version of the -- of  
25 the checklist on page 9, under Inventory

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1 Controls, there's a document or something  
2 called Inventory Control Policy.  
3 Do you see that?  
4 A. I do.  
5 Q. And so do you recall that there  
6 was in existence, as of the time this was  
7 being reviewed and circulated, which it  
8 appears to be around April of 2014, there was  
9 a document at least called an inventory  
10 control policy?  
11 A. There was.  
12 Q. Okay. And the other documents  
13 that are listed below that also -- do  
14 those -- do you understand those to each be  
15 identifying a separate policy or procedures  
16 document?  
17 A. I do.  
18 Q. Okay. And do you believe that  
19 at the time this version was circulated, that  
20 someone had undertaken the effort based on  
21 the -- all of the library of policies that  
22 you were able to put your hands on, somebody  
23 had undertaken the effort to go through the  
24 policies and try to match up which policies  
25 went with which of these VAWD-required topics

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1 in this checklist?  
2 MR. KOBRIN: Object to form.  
3 A. I do.  
4 BY MR. BARTON:  
5 Q. Okay. And were you involved in  
6 that task of trying to see where your  
7 existing policies matched up with the VAWD  
8 checklist?  
9 A. Yes.  
10 Q. Okay. Do you believe as you  
11 sit here that you made the edits on this  
12 document, actually typed them in?  
13 A. On the notation of who the  
14 responsible party are and what documents we  
15 had.  
16 Q. Yes. You believe you did that?  
17 A. Yes.  
18 Q. Okay. And then we talked about  
19 the checklist that you'll see on page 8, for  
20 example. This is another one where there are  
21 some boxes checked and some boxes not  
22 checked, correct?  
23 A. Correct.  
24 Q. Do you recall being one who  
25 kind of went through the checklist to try to

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1 identify which of these topics appeared to be  
2 addressed by existing policies?  
3 MR. KOBRIN: Object to form,  
4 asked and answered.  
5 A. I can't specifically remember  
6 whether I was the one checking them, but I do  
7 remember going through and verifying with our  
8 current policies what we had and what needed  
9 to be updated, yeah.  
10 BY MR. BARTON:  
11 Q. Right.  
12 And so would you agree that on  
13 the inventory controls page on page 8, the  
14 second topic from the top is identified as:  
15 Reporting suspicious prescription orders, and  
16 then (where criminal activity is suspected)  
17 to Food and Drug Administration, state agency  
18 and (if controlled substance) Drug  
19 Enforcement Administration within three days  
20 (not applicable for reverse distributors).  
21 Do you see that?  
22 MR. KOBRIN: Object to form.  
23 A. I do.  
24 BY MR. BARTON:  
25 Q. Whoever was going through this

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1 as of this point in time did not check that  
2 box on this list, correct?  
3 A. It's not checked, yes.  
4 (HBC-Rogos Deposition Exhibit 7  
5 marked.)  
6 BY MR. BARTON:  
7 Q. I'm handing you Exhibit 7.  
8 Exhibit 7 is a four-page document beginning  
9 Bates HBC\_MDL0052107, correct?  
10 A. Yes.  
11 Q. And then it goes through 52110,  
12 correct?  
13 A. Correct.  
14 Q. This document has the HBC  
15 Service Company name and address in the upper  
16 left-hand corner and then below that the  
17 words Inventory Controls, with an effective  
18 date for this document showing as  
19 August 1, '14.  
20 Do you see that?  
21 A. I do.  
22 Q. Now, it identifies on the last  
23 page of the exhibit, page 4, there is a  
24 document owner identified, and you're  
25 identified as the document owner.

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1 Do you see that?  
2 A. I do.  
3 Q. Okay. Now, do you know if  
4 this -- the substance of this document,  
5 Inventory Controls, is the same or  
6 substantially similar to the document that  
7 was listed on that inventory controls list on  
8 page 9 of the previous exhibit?  
9 MR. KOBRIN: Object to form.  
10 You're just saying the inventory  
11 control policy document or any of the  
12 documents?  
13 BY MR. BARTON:  
14 Q. I'm just asking him if he  
15 believes that the inventory control policy  
16 document that is listed in Exhibit 6 under  
17 the inventory control section on page 9 of  
18 that exhibit, where it lists inventory  
19 control policy, if you believe that the  
20 document that is Exhibit 7 is likely the  
21 document you were referencing in Exhibit 6?  
22 A. It should be, yes.  
23 MR. KOBRIN: Are you going to  
24 give him a copy of that document or do  
25 you have a copy of that document to

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1 show him so that...  
2 MR. BARTON: That's why I'm  
3 asking because I don't know. There  
4 wasn't -- these -- these -- these are  
5 just listed policies on this  
6 Exhibit 6.  
7 MR. KOBRIN: No, I understand  
8 that. I'm just wondering if you're  
9 asking him -- my understanding is  
10 you're asking him if 7, if he thinks  
11 Exhibit 7 is similar or like one of  
12 these bulleted listed policies --  
13 MR. BARTON: Correct, if that's  
14 what he believes he was referring to.  
15 MR. KOBRIN: -- from four years  
16 ago.  
17 Well, he's not referring to  
18 anything in this document.  
19 MR. BARTON: Well, I get to ask  
20 him questions and we'll see what he  
21 says.  
22 MR. KOBRIN: I hear you. Are  
23 you going to show him anything,  
24 though, before you ask him if  
25 something is similar or...

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1 MR. BARTON: Yeah. I've showed  
2 him Exhibit 7.  
3 BY MR. BARTON:  
4 Q. I think you've already answered  
5 my question, but all I'm trying to do is to  
6 see if you think, from your recollection of  
7 having been involved in this project, if the  
8 document that we're looking at in Exhibit 7  
9 is likely, in substance, the same document  
10 you were identifying there in Exhibit 6.  
11 A. Probably likely, yes.  
12 Q. Yeah. Okay.  
13 And do you believe, just based  
14 on your recollection and having been involved  
15 in the project, do you believe that what is  
16 shown here in Exhibit 7, this document, was  
17 likely existing in the library of SOPs that  
18 you had, you know, in your office and  
19 provided to Dolly at the start of this VAWD  
20 certification process?  
21 A. Yes.  
22 Q. Okay. Do you recall -- looking  
23 at Exhibit 7, do you recall yourself having  
24 any role or hand in drafting the content of  
25 what is shown in Exhibit 7?

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1 A. Myself personally?

2 Q. Yes.

3 A. No.

4 Q. Okay. Did -- by this time of

5 August of 2014, do you recall having had any

6 role in reviewing this inventory control

7 policy and, you know, approving it or

8 anything like that, or was it just a

9 preexisting policy that was in your set of

10 policies?

11 A. It was a preexisting policy --

12 Q. Okay.

13 A. -- that we were using.

14 Q. Okay. So it was -- but as part

15 of the VAWD certification process, do you

16 then recall taking this policy and, you know,

17 adding to it or revising it consistent with

18 VAWD's expectations?

19 MR. KOBRIN: Object to form.

20 A. What I recall is the inventory

21 policy that was in the library of SOPs was in

22 a different format than VAWD -- the VAWD

23 application asked us to put the policies in.

24 As we transferred the

25 information from our previous policies into

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1 the format, there might have been some edits

2 that, as a group, the pharmacy key team, if

3 we had questions amongst us, we would ask to

4 see how we wanted to, I guess, update the

5 policy, or if there were things in the VAWD

6 checklist that we needed to ensure that were

7 in the policies to get the certification, we

8 needed to put those in.

9 BY MR. BARTON:

10 Q. Okay. So as of August of 2014,

11 looking kind of at the effective date shown

12 here for this policy on this document, on

13 Exhibit 7, as of -- as of August 1st of 2014,

14 do you recall having directed at HBC that

15 there be any training of HBC employees on how

16 one might identify an order from a pharmacy

17 of controlled substances as suspicious?

18 MR. KOBRIN: Object to form.

19 A. What employees?

20 BY MR. BARTON:

21 Q. Any. Anyone at the warehouse,

22 I guess. Anyone under your supervision

23 ultimately.

24 A. I don't recall any specific

25 training. There were employees that were in

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1 place prior to my arrival at HBC that might

2 have gotten training.

3 Q. Okay. Do you recall whether,

4 at HBC at the time we're talking about now,

5 in 2014, was there like a learning management

6 system for employees to get all kinds of

7 training that they may need for their jobs?

8 MR. KOBRIN: Object to form.

9 A. I can't recall.

10 BY MR. BARTON:

11 Q. Okay. You understand what I'm

12 referring to, though, in terms of like an

13 LMS, learning management system, for employee

14 training? Is that something you have had

15 familiarity with in your career?

16 A. It is.

17 Q. And one of the things that an

18 LMS system can do if an employer sets it up

19 this way is to have training for its

20 employees, for example, on policies and

21 procedures, correct?

22 A. I would assume, yes.

23 Q. Okay. But as you sit here, you

24 don't recall whether that existed in that --

25 whether that functionality existed in HBC at

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1 the time in 2014?

2 A. An LMS system?

3 Q. Yes.

4 A. I can't recall, no.

5 Q. With respect to this policy in

6 Exhibit 7, one of the things that it purports

7 to address or it does address is the

8 reporting of suspicious prescription product

9 orders, correct?

10 A. Yes.

11 Q. That's both mentioned in the

12 overview at the top of the document and then

13 also there's a section on the first page of

14 the document with that heading, Reporting

15 Suspicious Prescription Product Orders,

16 correct?

17 A. It is, yes.

18 Q. And there are four bullet

19 points below that heading, correct?

20 A. There are.

21 Q. And that appears to be the part

22 of this document that specifically addresses

23 reporting suspicious prescription product

24 orders, correct?

25 A. Yes.

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1 Q. Okay. Would you agree that the  
2 substance of this document, where it  
3 addresses reporting suspicious product  
4 orders, it does not identify, for example,  
5 any criteria for how to screen orders for  
6 whether they're suspicious?  
7 MR. KOBRIN: Object to form.  
8 A. I don't really understand the  
9 question.  
10 BY MR. BARTON:  
11 Q. Yeah.  
12 Do you see anywhere in this  
13 document, Exhibit 7 -- do you see anywhere  
14 where the policy lists or describes any  
15 criteria that someone who is trying to follow  
16 this policy and implement it might use to  
17 decide whether a given order from a Giant  
18 Eagle pharmacy is suspicious or not for any  
19 reason?  
20 MR. KOBRIN: Object to form.  
21 A. When you -- I just have -- when  
22 you say an order from a Giant Eagle pharmacy,  
23 you're saying a pharmacy orders it from the  
24 warehouse?  
25 ///

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1 BY MR. BARTON:  
2 Q. Right. Isn't that what would  
3 typically happen?  
4 A. Uh-huh, yep.  
5 Q. And because we're talking  
6 about -- in this instance we're talking about  
7 prescription product orders or orders for  
8 prescribed products, drugs, right?  
9 A. Correct.  
10 Q. And so did you understand by  
11 this time, having gone to the DEA conference  
12 and starting to, you know, learn what you  
13 were learning -- did you understand at that  
14 point in time that one of the things a  
15 wholesaler or distributor of controlled  
16 substances has to do is at least monitor for  
17 potentially suspicious orders of the  
18 controlled substances?  
19 MR. KOBRIN: Object to form.  
20 A. I did.  
21 BY MR. BARTON:  
22 Q. Okay. Yeah.  
23 And so my question about this  
24 document is just whether you would agree that  
25 this document itself, Exhibit 7, doesn't --

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1 it doesn't try to describe or identify what  
2 might make an order suspicious, true?  
3 MR. KOBRIN: Object to form.  
4 A. I think it would probably  
5 depend on the item that the pharmacy was  
6 ordering from us.  
7 BY MR. BARTON:  
8 Q. Whether an order is suspicious  
9 might depend on what is being ordered? Is  
10 that what you're saying?  
11 A. Based on the quantity, yeah.  
12 Q. So the quantity of an order  
13 might be suspicious. If somebody puts in an  
14 order for a really large quantity of narcotic  
15 pain medication, that might be suspicious,  
16 correct?  
17 A. It would.  
18 Q. Okay. And are there other  
19 criteria that you can think of or came to  
20 understand would be good to look for? Are  
21 there other criteria that might make an order  
22 suspicious?  
23 A. I believe that there were  
24 controls at the corporate level, which Mike  
25 Bianco and others monitored, that would

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1 identify if a certain pharmacy within our  
2 Giant Eagle system was ordering over -- or I  
3 guess overordering a certain prescription.  
4 I know that they did monitor  
5 that and would send out monthly reports on  
6 thresholds to us if any store was over the  
7 threshold.  
8 Q. Okay. So there was a company  
9 system, what you're referring to, that you  
10 understood was in place to be monitoring for  
11 orders that somehow were flagged by the  
12 system as potentially suspicious?  
13 A. Correct.  
14 Q. Based on quantity or frequency  
15 or size or anything that the system might be  
16 flagging?  
17 A. I don't know what the specifics  
18 were on the flags, but yes.  
19 Q. Right. You didn't set up that  
20 system to kind of put in whatever parameters  
21 it had, correct?  
22 A. No.  
23 Q. So that -- and my question was  
24 really just about what's -- what was in this  
25 written policy as of this point in time

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1 that -- none of that that you've just  
2 described, the companywide system or any  
3 other criteria that employees might use for  
4 identifying an order of suspicious -- an  
5 order as suspicious, that's not -- that's not  
6 explained in this document, correct?  
7 A. No.  
8 Q. Okay. What this document does  
9 do is it addresses how HBC intended to  
10 respond if it identified or suspected an  
11 order as suspicious?  
12 MR. KOBRIN: Object to form.  
13 A. That's correct.  
14 MR. BARTON: Okay.  
15 (HBC-Rogos Deposition Exhibit 8  
16 marked.)  
17 BY MR. BARTON:  
18 Q. I'm handing you Exhibit 8.  
19 Exhibit 8 is a multiple-page document  
20 starting with page Bates number  
21 HBC\_MDL00132908; is that correct?  
22 A. Yes.  
23 Q. And the last page of this  
24 exhibit, Bates HBC\_MDL00132924; is that  
25 right?

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1 A. Correct.  
2 Q. Okay. This -- this exhibit  
3 has, again, a couple of pages of e-mail  
4 conversation in the first two pages and  
5 then -- or first three pages -- four, sorry.  
6 The first four pages are  
7 e-mails, and then there's a document that is  
8 a Buzzeo PDMA pre-VAWD inspection report that  
9 was attached to one of the e-mails; is that  
10 correct?  
11 A. Yes.  
12 Q. Okay. So looking at the  
13 e-mails, the first e-mail in the chain, which  
14 is down -- starts on the bottom of page --  
15 the third page of the exhibit, carries over  
16 to the fourth page of the exhibit.  
17 So the third page of the  
18 exhibit, ending in 910, that -- is that an  
19 e-mail from you to Greg Carlson, Mike Bianco,  
20 Dolly Stevens, George Chunderlik, Joe  
21 Millward and Carmen Forde dated September 30,  
22 2014?  
23 A. Yes.  
24 Q. And do you believe that to be  
25 an e-mail that you did send to them on that

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1 date?  
2 A. Yes.  
3 Q. Okay. The subject of the  
4 e-mails, Items for NABP. NABP, again, is the  
5 National Association of the Board of  
6 Pharmacy.  
7 Did I say that right?  
8 A. Yes.  
9 Q. And so on the second page of  
10 your e-mail, you state to the group in the  
11 third paragraph down: We should also be  
12 getting our review from Tina Posey of Buzzeo  
13 based upon her visit last week.  
14 Do you see that?  
15 A. Uh-huh.  
16 Q. Do you recall Tina Posey of  
17 Buzzeo coming to visit HBC to help consult on  
18 the VAWD certification?  
19 A. I do.  
20 Q. Were you one of the people who  
21 requested help from Buzzeo to prepare for  
22 VAWD certification?  
23 A. I was.  
24 Q. Okay. So what -- what did Tina  
25 come do when she visited? Do you recall?

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1 A. I know that she looked through  
2 our SOPs that we had currently at the  
3 warehouse. She also looked at the controls  
4 that we had in place, security controls, with  
5 regards to access, recordkeeping that we had  
6 in the pharmacy and essentially the  
7 procedures we had in place back in that  
8 pharmacy room.  
9 Q. You go on and state: My  
10 assumption from speaking with her last week  
11 is that we will have to do significant work  
12 in order to rearrange our SOPs in the way  
13 that the NABP auditor will want to see them.  
14 Is that what you said?  
15 A. Yes.  
16 Q. And do you recall any verbal  
17 feedback you got from Ms. Posey about your  
18 SOPs as they were existing at the time she  
19 came out and visited?  
20 A. Not specifically beyond the  
21 format that they should be in when we submit  
22 them so they will be familiar to the NABP  
23 VAWD process.  
24 Q. What you recall as you sit here  
25 is that the significant work that needed to

<p style="text-align: right;">Page 82</p> <p>1 be done had more to do with format than  2 substance?  3 A. Correct.  4 Q. Do you recall there being  5 concerns about substance from Ms. Posey?  6 A. I can't specifically recall,  7 no.  8 Q. Okay. Do you recall yourself  9 having any concerns at this point in time  10 about just are the substance of our policies  11 sufficient for VAWD certification purposes?  12 A. There might have been several  13 that we didn't have SOPs for, yes.  14 Q. Okay. So there may have been  15 some SOPs that VAWD would expect you to have  16 but you didn't have at that point in time?  17 A. Correct.  18 Q. And might there have been some  19 policies that you had but that were not as  20 complete or detailed as VAWD might want to  21 see them?  22 A. Correct.  23 Q. Well, going on, you -- a couple  24 more paragraphs down, you say: Getting  25 these, our SOPs, updated quickly will be</p>	<p style="text-align: right;">Page 84</p> <p>1 important from an operational standpoint that  2 your supervisors, managers and support staff  3 be properly trained on the SOPs?  4 A. That was one of the  5 requirements for VAWD, and that's what we --  6 we wanted to make sure -- we had some  7 turnover in HBC during my tenure, and we  8 wanted to make sure we had documentation that  9 everybody was properly trained on those SOPs.  10 Q. So it was your expectation that  11 VAWD was not only going to inspect what SOPs  12 you had on paper in writing, but they were  13 also going to look into whether your people,  14 your staff, actually understood them and  15 could implement them?  16 MR. KOBRIN: Object to form.  17 A. I believe so.  18 BY MR. BARTON:  19 Q. Okay. That was -- that was  20 your expectation of what you were going to  21 need to do in order to get VAWD  22 certification --  23 A. Correct.  24 Q. -- is have not only the right  25 policies, but also have your people trained</p>
<p style="text-align: right;">Page 83</p> <p>1 important in order for our supervisors,  2 managers and support staff to be properly  3 trained on them.  4 Do you see that?  5 A. Uh-huh.  6 Q. "This was one area where Buzzeo  7 stated that we need to complete very  8 quickly."  9 Did you say that?  10 A. Yes.  11 Q. Okay. Why did -- why do you  12 think Buzzeo said you needed to complete that  13 very quickly?  14 A. On the items that we needed to  15 update where she thought we may have some  16 deficiencies, we just needed to make sure  17 that we had everybody who worked back  18 there -- and I guess when I say everyone, it  19 should be the support staff, supervisors and  20 any managers that come in and out, they  21 should understand the SOPs that we were  22 updating -- had already in place, updating,  23 in order to get ready for VAWD.  24 Q. Okay. And is it important --  25 if you have SOPs that are written, is it</p>	<p style="text-align: right;">Page 85</p> <p>1 on them?  2 A. Correct.  3 Q. Continuing to look at  4 Exhibit 8, the -- your e-mail started the  5 conversation that this chain includes. Your  6 e-mail was September 30.  7 Moving up the conversation, so  8 now looking at the second page of this  9 exhibit, there's an e-mail from Dolly Stevens  10 on Monday, October 13. I'm looking at the  11 top of page 2, the exhibit.  12 Are you with me?  13 A. Yes.  14 Q. And so Ms. Stevens writes on  15 Monday: Good morning. Attached the Pre-VAWD  16 Inspection Report from the onsite visit by  17 Buzzeo. Matt has already addressed that  18 there is significant work in order to  19 rearrange our SOPs.  20 Do you see that?  21 A. I do.  22 Q. And so that appears to be where  23 she attached the document that is at the back  24 of this exhibit starting on Bates page ending  25 912; is that correct?</p>

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1 A. I believe so, yes.  
 2 Q. Yeah. I didn't ask a very good  
 3 question.  
 4 Do you believe this document  
 5 starting on the Bates ending 912 -- do you  
 6 believe that is the pre-VAWD inspection  
 7 report that she's referencing in the e-mail?  
 8 A. Yes.  
 9 Q. And the -- looking now at that  
 10 inspection report, the attachment to these  
 11 e-mails, it appears to be a letter dated --  
 12 it starts with a letter dated October 10,  
 13 2014 to Dolly Stevens from a Scott Hardy at  
 14 Buzzeo, correct?  
 15 A. Yes.  
 16 Q. And his letter states:  
 17 Attached are the results of the Pre-VAWD  
 18 inspection performed on September 22, 2014  
 19 and September 23, 2014 by Tina Posey.  
 20 Correct?  
 21 A. Yes.  
 22 Q. Okay. So just kind of putting  
 23 together the sequence here with these e-mails  
 24 and this attachment, it sounds like Ms. Posey  
 25 came out on the 22nd and 23rd of September

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1 and met with you and talked with you and  
 2 looked at your policies, among other things,  
 3 correct?  
 4 A. Correct.  
 5 Q. And she gave you some feedback  
 6 at that time verbally, I assume, and that's  
 7 what you were referring to in your  
 8 September 30 e-mail to the group when you --  
 9 when you said: My assumption from speaking  
 10 with her last week is we have significant  
 11 work to do.  
 12 Right?  
 13 A. Correct.  
 14 Q. And then the e-mail that Dolly  
 15 sent on October 13 attached the letter and  
 16 the report that had come on October 10th from  
 17 Buzzeo, right?  
 18 A. Yep. Correct.  
 19 Q. And so looking at the Buzzeo  
 20 report, for example, looking at page 8 of 13  
 21 of the Buzzeo report, when you got the Buzzeo  
 22 pre-VAWD inspection report, did you read it?  
 23 A. This report?  
 24 Q. Yes.  
 25 A. Yes.

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1 Q. And was that something that you  
 2 think other key members of the team read this  
 3 as well?  
 4 A. I would hope so.  
 5 Q. On page 8, there's a section  
 6 addressing policies and procedures.  
 7 Do you see that?  
 8 A. I do.  
 9 Q. And the -- that begins by  
 10 saying that VAWD requires that Wholesale  
 11 Distributors maintain and -- excuse me --  
 12 maintain, enforce and adhere to written  
 13 policies and procedures covering -- and then  
 14 it just describes the things the policies  
 15 have to cover, correct?  
 16 A. Correct.  
 17 Q. The -- it then says: Several  
 18 policies and procedures were reviewed as part  
 19 of the pre-VAWD inspection. The majority of  
 20 them were very high level. All of the  
 21 procedures require review and updates in  
 22 order to meet VAWD criteria for the type of  
 23 information that is required to be  
 24 documented.  
 25 Do you see that?

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1 A. I do.  
 2 Q. So did you understand that  
 3 Buzzeo was suggesting, not only that the  
 4 format of the policies needed to be reviewed  
 5 and revised for VAWD inspection, but that the  
 6 substance of them required some review and  
 7 updates as well?  
 8 A. I do.  
 9 MR. KOBRIN: Object to form.  
 10 BY MR. BARTON:  
 11 Q. So the recommendation of Buzzeo  
 12 at the bottom of this section is: Update all  
 13 VAWD-related policies and procedures to  
 14 incorporate the standard VAWD requirements.  
 15 Correct?  
 16 A. Correct.  
 17 Q. So that, among other things,  
 18 was part of the project that the team knew it  
 19 needed to work on in order to prepare for  
 20 VAWD inspection, true?  
 21 A. Correct.  
 22 Q. Likewise, if you'll turn to  
 23 page 12 of 13 of this exhibit, of this Buzzeo  
 24 report, there's a paragraph there of  
 25 additional recommendations, paragraph C.

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1 Do you see that?

2 A. Uh-huh, I do.

3 Q. And there, was Buzzeeo reporting

4 to you that: Several of the procedures

5 provided are very high level and do not

6 reference all the VAWD criteria or reference

7 additional documentation covering "how" a

8 process is performed.

9 Do you see that?

10 A. I do.

11 Q. And so did you have an

12 understanding of what some of the policies

13 were that Buzzeeo was referring to there?

14 A. I do.

15 Q. And did you agree and

16 understand at that point in time that there

17 needed to be some substantive changes to some

18 of your policies in order to have the content

19 that VAWD would expect?

20 MR. KOBRIN: Object to form.

21 A. I did.

22 (HBC-Rogos Deposition Exhibit 9

23 marked.)

24 BY MR. BARTON:

25 Q. I'm handing you what we've

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1 marked as Exhibit 9. All right. Exhibit 9

2 again is multiple pages with e-mails and

3 attachments.

4 Just for the record, the first

5 page of this exhibit is HBC\_MDL00133435; is

6 that correct?

7 A. Correct.

8 Q. And last page of this exhibit,

9 HBC\_MDL00133463; is that right?

10 A. Correct.

11 Q. The -- this exhibit starts with

12 a couple of e-mails on the first page.

13 You're not a sender or recipient of the

14 e-mails, but again, you're referenced in

15 them, so I just want to ask you your

16 familiarity and understanding of what's being

17 discussed here.

18 The e-mail at the bottom -- or

19 the lower e-mail on the first page from

20 George Chunderlik to Joe Millward dated

21 Thursday, December 4.

22 Do you see that?

23 A. I do.

24 Q. And he's referring to updating

25 our policies and procedures for the Drug

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1 Supply Chain Security Act.

2 Do you see that?

3 A. I do.

4 Q. Was that a project that was --

5 that was going on kind of simultaneously with

6 the VAWD certification project, or was it

7 part of the VAWD certification project or a

8 totally different project?

9 Do you recall?

10 A. I don't recall, no.

11 Q. Do you have any recollection as

12 you sit here of what updates were needed for

13 the Drug Supply Chain Security Act?

14 A. I don't remember.

15 Q. Okay. Down in his e-mail, I

16 just want to ask you because he's referring

17 to where some policies existed on the

18 computer, so I just want to ask you if that

19 is familiar to you or --

20 He says: The remaining Word

21 documents were all written for the VAWD

22 accreditation and are currently residing on

23 the S: drive via the following path. And he

24 describes the path.

25 Do you see where I'm talking

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1 about?

2 A. I do.

3 Q. And then he lists in bullet

4 points a number of documents. Included in

5 that is a document called Inventory Control

6 Doc.

7 Do you see that?

8 A. I do.

9 Q. Okay. So does that refresh

10 your recollection or does that -- do you

11 recall whether there was a folder on your

12 system or your network that, you know, had

13 kind of the pathway that he describes there

14 on an S: drive. Well, first of all, let me

15 just go through it.

16 Do you recall there being an

17 S: drive that you could access on your

18 computer?

19 A. I believe there was.

20 Q. And then I assume once you

21 access the S: drive there might be folders

22 that you could click on to look at documents

23 within those folders, correct?

24 A. Correct.

25 Q. And folders could have

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1 subfolders in them like you can do with Word,  
 2 correct?  
 3 A. Correct.  
 4 Q. So he appears to be describing  
 5 a place on the S: drive that was a VAWD  
 6 certification folder and then NABP  
 7 application docs within that folder, and then  
 8 a folder of required policies and procedures  
 9 within that.  
 10 Is that how you would read  
 11 that?  
 12 A. Yes.  
 13 Q. And is that consistent with  
 14 what you believe there to have been on the  
 15 S: drive at that time?  
 16 A. I don't recall if there were  
 17 more documents, but that looks familiar, yes.  
 18 Q. Right. Okay.  
 19 Yeah, you -- without sitting  
 20 here looking at it, you don't know whether he  
 21 listed them all, but that basic  
 22 organizational pathway appears to be  
 23 something familiar to you?  
 24 A. Correct.  
 25 Q. Okay. So the e-mail back from

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1 Joe to -- excuse me, from -- yeah, from Joe  
 2 back to Greg Carlson states that George and  
 3 I, along with Matt --  
 4 He's referring to you there,  
 5 correct, you assume?  
 6 A. I would assume.  
 7 Q. Okay.  
 8 -- and possibly Mike will have  
 9 to review how the existing documents already  
 10 cover the DSCSA.  
 11 Do you see that?  
 12 A. Uh-huh.  
 13 Q. Okay. And attachments to this  
 14 e-mail in December of 2014 are listed there  
 15 at the top.  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. And one of them is Inventory  
 19 Control Doc as an attachment. And if we turn  
 20 forward in the exhibit, there's -- on the  
 21 page that has Bates number ending in 445, we  
 22 see that inventory controls policy that we  
 23 looked at earlier, correct?  
 24 A. Yes.  
 25 Q. And that's the one with the

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1 effective date of August 1, '14, and it's  
 2 four pages, and at the end it's -- you're the  
 3 document owner of that document, correct?  
 4 A. Correct.  
 5 Q. It would appear to be the same  
 6 one that we previously went over in an  
 7 earlier exhibit, right?  
 8 A. It appears to be.  
 9 Q. Okay. So as of this point in  
 10 time in December of 2014, is it your  
 11 recollection or understanding that that  
 12 document, inventory controls, that we just  
 13 looked at, that document continued to be the  
 14 written policy at HBC that addressed the  
 15 reporting of suspicious prescription product  
 16 orders?  
 17 MR. KOBRIN: Object to form.  
 18 A. You're saying from August 1st?  
 19 BY MR. BARTON:  
 20 Q. Yes. And -- yeah, so what I'm  
 21 really asking, because I want to be clear.  
 22 What I'm really asking is now,  
 23 this is being sent in December of 2014, so a  
 24 few months later. So we're now four months  
 25 from August 1. So I'm just asking if you

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1 believe that this continued to be the version  
 2 of the written policy for HBC addressing  
 3 suspicious prescription product orders.  
 4 MR. KOBRIN: Object to form.  
 5 A. After December?  
 6 BY MR. BARTON:  
 7 Q. As of December, when it was  
 8 being sent from Joe Millward to Greg Carlson,  
 9 December 5, 2014.  
 10 MR. KOBRIN: Object to form.  
 11 A. I believe so.  
 12 BY MR. BARTON:  
 13 Q. Okay. And we're about to get  
 14 where it gets edited and changed and updated.  
 15 We'll go through that. I'm just kind of  
 16 trying to understand the timeline of if you  
 17 believe this was the version still in effect  
 18 in December.  
 19 And you believe it was?  
 20 A. I do.  
 21 (HBC-Rogos Deposition  
 22 Exhibit 10 marked.)  
 23 BY MR. BARTON:  
 24 Q. Okay. I hand you Exhibit 10.  
 25 Again, this is a multiple-page document with

<p style="text-align: right;">Page 98</p> <p>1 some attachments we've seen before and some  2 new ones. For the record, the first page of  3 this is HBC_MDL00181521; is that right?  4 A. Yes.  5 Q. And the last page of this  6 exhibit is HBC_MDL00181555; is that right?  7 A. Yes.  8 Q. Okay. Now, this -- this  9 exhibit has some correspondence, e-mail and  10 letters, in the February and March of 2015  11 time frame. So we've moved forward a couple  12 of months from the last exhibit, which was in  13 December of 2014, right, just for context?  14 A. Yes.  15 Q. Okay. The -- now, there's a  16 letter -- on the third page of this exhibit,  17 there's a letter dated February 23rd, 2015,  18 and it appears to be from you on Giant Eagle  19 letterhead; is that right?  20 A. Yes.  21 Q. Do you recall sending this  22 letter?  23 A. I do.  24 Q. Okay. And the letter is to an  25 Alejandro Aranda, accreditation coordinator</p>	<p style="text-align: right;">Page 100</p> <p>1 team's review of NABP's findings, we believe  2 we need an extension in which to respond  3 properly to NABP. We are officially  4 requesting a 90-day extension to allow time  5 to address the issues that NABP raised.  6 Do you see that?  7 A. I do.  8 Q. Then you go on to say: At this  9 point, we are considering engaging a third  10 party consultant, Buzzeo, to assist us with  11 closing any gaps before the resubmission of  12 our documents to complete the VAWD assessment  13 form.  14 Right?  15 A. Right.  16 Q. So do you recall these events  17 of getting an initial assessment from NABP  18 and realizing we need a little more time to  19 respond to what they're telling us and we  20 might want to get some help from Buzzeo as  21 well?  22 A. I do.  23 Q. The next page of the exhibit is  24 the beginning of what appears to be the VAWD  25 Policy &amp; Procedure Assessment from the NABP</p>
<p style="text-align: right;">Page 99</p> <p>1 for the NABP; is that right?  2 A. Correct.  3 Q. And you had some  4 correspondence, e-mail and written  5 correspondence, with Mr. Aranda; is that  6 right?  7 A. Uh-huh, I did.  8 Q. The letter first says: Thank  9 you for providing the NABP assessment  10 findings concerning VAWD to us recently.  11 So you had received, by the  12 time you sent this, some assessment findings  13 from NABP, correct?  14 A. I believe so. I can't  15 specifically recall.  16 Q. Okay. And you go on to say:  17 We've now had -- had -- we have now had an  18 opportunity to review those findings in  19 depth.  20 So do you recall receiving some  21 assessment findings from NABP and reviewing  22 them carefully?  23 A. Vaguely, yeah.  24 Q. Yeah.  25 You go on to say: Based on our</p>	<p style="text-align: right;">Page 101</p> <p>1 for HBC Service Company.  2 Do you see that?  3 A. I do.  4 MR. KOBRIN: I just want to  5 flag the letter that you just went  6 over appears to be a draft. It  7 appears to be incomplete. Are we in  8 agreement on that, that there are gaps  9 in the letter that he hadn't filled in  10 yet, so I'm not sure that this letter  11 was ever sent or was ever finalized.  12 MR. BARTON: Okay.  13 BY MR. BARTON:  14 Q. Well, do you believe you ever  15 sent the letter that is -- that we were just  16 referring to? Do you believe you sent that  17 letter in one form or another to Mr. Aranda?  18 A. I believe so, yes.  19 Q. And what counsel is referring  20 to as blank is a phone number that wasn't  21 filled in in this version that we're looking  22 at, correct?  23 A. Correct.  24 Q. But do you believe you likely  25 either filled that in or didn't fill it in,</p>

<p style="text-align: right;">Page 102</p> <p>1 but you sent the letter?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. The -- looking at the</p> <p>4 assessment then, this -- is this the</p> <p>5 assessment that you believe you're referring</p> <p>6 to in that February 23rd letter back to</p> <p>7 Mr. Aranda?</p> <p>8 A. It is.</p> <p>9 Q. Okay. And it has a date of</p> <p>10 February 10, 2015, looking at the first page</p> <p>11 of it in the upper right corner.</p> <p>12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. All right. And so this --</p> <p>15 again, this is a policy and procedure</p> <p>16 assessment, and there are some general</p> <p>17 comments on the first page that I want to ask</p> <p>18 you about down at the bottom.</p> <p>19 Do you see where I am?</p> <p>20 A. I do.</p> <p>21 Q. So the reviewer comments state:</p> <p>22 The policies and procedures (P&amp;P) submitted</p> <p>23 by the applicant lack detail and often do not</p> <p>24 reference the requirements. VAWD requires</p> <p>25 that the criteria as noted in the assessment</p>	<p style="text-align: right;">Page 104</p> <p>1 addressing inventory controls.</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. And so that, for example, lists</p> <p>5 various topics that VAWD is looking for -- or</p> <p>6 the NABP is looking for, and there's -- in</p> <p>7 the third column over from the left there's a</p> <p>8 policy and procedure name and number, and a</p> <p>9 number of them are noted as still being</p> <p>10 needed, correct?</p> <p>11 A. Correct.</p> <p>12 Q. So there's -- that's just one</p> <p>13 area, among others, but that's one area where</p> <p>14 you knew there were still going to be some</p> <p>15 additional policies needed to meet VAWD's</p> <p>16 expectations, right?</p> <p>17 A. The ones that said still</p> <p>18 needed, yes.</p> <p>19 Q. Okay. And there are also some</p> <p>20 reviewer comments after that section as well</p> <p>21 as there are after several of the sections,</p> <p>22 but there's some specific reviewer comments</p> <p>23 there about the inventory control area as to</p> <p>24 how those policies look, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 103</p> <p>1 be incorporated into documentation and with</p> <p>2 sufficient definition that would demonstrate</p> <p>3 that the requirements are part of operational</p> <p>4 activities.</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. So did you understand that one</p> <p>8 of the items of feedback you were getting</p> <p>9 from the NABP as of February 2015 was that in</p> <p>10 some respects your policies and procedures</p> <p>11 lacked detail and didn't meet VAWD's</p> <p>12 expectations?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So among other concerns</p> <p>15 that you had as trying to ultimately succeed</p> <p>16 in getting VAWD certification, you knew you</p> <p>17 needed to do further work yet on your</p> <p>18 policies and procedures?</p> <p>19 A. We did.</p> <p>20 Q. Okay. The assessment goes</p> <p>21 through lots of topics, similar to the Buzzee</p> <p>22 report we looked at earlier. We won't go</p> <p>23 through all of them, but the -- let's see.</p> <p>24 Looking at page 9 of the NABP</p> <p>25 assessment report, that one is the one</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Okay. The first reviewer</p> <p>2 comment notes that a process for conducting</p> <p>3 authentication of prescription customer</p> <p>4 orders for product is a VAWD requirement.</p> <p>5 How legitimate orders are received, reviewed</p> <p>6 and processed and how orders are screened for</p> <p>7 suspicious order criteria must be identified</p> <p>8 and documented.</p> <p>9 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. Okay. So you understood that</p> <p>12 one of the items of feedback you were getting</p> <p>13 from the review of your existing policies on</p> <p>14 inventory controls was that you were being</p> <p>15 told that how orders are screened for</p> <p>16 suspicious order criteria must be identified</p> <p>17 and documented, right?</p> <p>18 MR. KOBRIN: Object to form,</p> <p>19 misrepresents the evidence.</p> <p>20 A. Correct, among with the regular</p> <p>21 orders as well.</p> <p>22 BY MR. BARTON:</p> <p>23 Q. The -- let's see. Okay.</p> <p>24 If you turn still within the</p> <p>25 exhibit, after the assessment report that we</p>

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1 were just looking at, there is an e-mail  
2 within the exhibit. It's Bates number ending  
3 542. And that's an e-mail from Mr. Aranda to  
4 you on February 10, 2015.  
5 Do you see that?  
6 A. Uh-huh.  
7 Q. So this appears to be the  
8 e-mail in which he attached and sent to you  
9 the policies and procedures assessment that  
10 we were just looking at.  
11 Do you agree?  
12 A. Yes.  
13 Q. And he says in the third  
14 paragraph: Please respond to all action  
15 items within 30 days in order to move forward  
16 with the VAWD application process.  
17 Do you see that?  
18 A. I do.  
19 Q. And then your letter to him on  
20 February 23rd that we looked at earlier, your  
21 response was, you know, we would like a  
22 90-day -- we need 90 days to fully respond to  
23 all of your questions, correct?  
24 A. Correct.  
25 MR. BARTON: Okay. This is

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1 5043.  
2 MR. KOBRIN: What number is  
3 this?  
4 MR. BARTON: This will be  
5 Number 11.  
6 (HBC-Rogos Deposition  
7 Exhibit 11 marked.)  
8 BY MR. BARTON:  
9 Q. Okay. Exhibit 11 is a document  
10 with the first page being HBC\_MDL00181482; is  
11 that right?  
12 A. Yes.  
13 Q. And the last page of the  
14 exhibit, HBC\_MDL00181511; is that right?  
15 A. Yes.  
16 Q. Okay. This exhibit again has  
17 several e-mails followed by what appear to be  
18 attachments to those e-mails. We'll just  
19 confirm that with you.  
20 The first e-mail in the chain  
21 on the second page started on March 24 of  
22 2015 from Dolly Stevens to a number of people  
23 identified there, and that's appearing to  
24 just list and discuss some notes of a  
25 discussion that day; is that right?

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1 A. Correct.  
2 Q. Okay. And then she says at the  
3 bottom: Next meeting set for Monday,  
4 March 30 at 9:00 a.m.  
5 So the group here that's part  
6 of this e-mail chain, does that look familiar  
7 to you as kind of the group that was meeting  
8 and discussing Buzzeo's various  
9 recommendations for VAWD certification?  
10 A. Yes.  
11 Q. Okay. And the e-mail -- the  
12 next e-mail up is from Tina Posey, and she  
13 was with Buzzeo, correct?  
14 A. She was.  
15 Q. And that's on Sunday, March 29.  
16 It's just to you and Dolly with also a Scott  
17 Hardy cc'd.  
18 Do you see that?  
19 A. I do.  
20 Q. Okay. And so Tina says, among  
21 other things, she says: Hi Dolly - Per your  
22 e-mail below, I was to receive all revised  
23 Giant Eagle VAWD documents by end of day  
24 Friday, March 27th. I only received two  
25 revised SOPs out of the 17 SOPs I reviewed

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1 and returned for revisions.  
2 And she identifies the two that  
3 she had received. And so she just goes on to  
4 say: I believe that our conference call  
5 scheduled for March 30 was to review any  
6 additional edits or comments, and so she's  
7 really just asking if we still have that call  
8 on Monday.  
9 Is that right?  
10 MR. KOBRIN: Object to form.  
11 A. I believe so, yeah.  
12 BY MR. BARTON:  
13 Q. And then she does say also, at  
14 the bottom of her e-mail: I need to see the  
15 revisions that are made. The GE team should  
16 utilize "track changes" so I can see when  
17 information is new, removed or if the GE team  
18 is accepting the edits that I entered.  
19 Do you see that?  
20 A. I do.  
21 Q. And you're familiar with what  
22 track changes is on Word if you're editing a  
23 document and showing someone what edits  
24 you've made, it's just a way for those edits  
25 to show up?

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1 A. I do.  
2 Q. Okay. The top e-mail on this  
3 exhibit then was -- is from Dolly Stevens to  
4 you and Joe Millward and kind of that team  
5 identified there, and she says that -- well,  
6 what are listed are a bunch of attachments to  
7 her e-mail.  
8 Do you recall kind of -- do you  
9 recall this e-mail and these -- these events?  
10 A. I do.  
11 Q. Okay. Listed in the e-mail  
12 attachments are an Inventory Control Policy -  
13 Suspicious Order Policy, and then also an  
14 Inventory Control Policy with revisions.  
15 Do you see that, where I'm  
16 referring to at the top, in the attachments,  
17 the list?  
18 A. Yes.  
19 Q. Okay. So I want to turn to  
20 what I think those are, and we'll see if you  
21 agree what is listed there.  
22 Then if you turn forward in the  
23 exhibit to what's Bates number ending 491,  
24 there's a document there that's called  
25 Suspicious Order Policy.

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1 Do you see that?  
2 A. I do.  
3 Q. And this one has an effective  
4 date of 8/1/14. It's got revision number 2.  
5 You're the policy owner. It's in a little  
6 different format from the inventory control  
7 policy we've seen earlier, correct?  
8 A. Yes.  
9 Q. Okay. And this one then is  
10 followed by a document that appears to be the  
11 redline or track changes version leading to  
12 the clean one that we just looked at.  
13 Would you agree?  
14 A. Yes.  
15 Q. Okay. And so do you believe  
16 both of these were attached to Dolly's e-mail  
17 on March 29 of 2015?  
18 A. Yes.  
19 Q. And do you -- do you know who  
20 made the revisions that are shown in the  
21 track changes here on this document?  
22 A. Most likely, that would have  
23 been me.  
24 Q. Okay. Do you recall who else  
25 reviewed and approved those changes before

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1 they became effective?  
2 A. It would have been a  
3 combination -- and I don't know specifically,  
4 but of the key pharmacy team that was on the  
5 previous e-mails.  
6 Q. Okay. And looking at the  
7 redlines, do you -- so do you believe that  
8 you took the prior document that we've looked  
9 at earlier that was called Inventory Controls  
10 with a -- you know, an effective date of  
11 8/1/14, do you believe you took that document  
12 as kind of your starting point of the  
13 substance and then made changes to it that  
14 are shown here on the track changes?  
15 A. On the suspicious order policy?  
16 Q. Yes.  
17 A. Yes.  
18 Q. Yeah, and one of the things  
19 that you changed was the title of it. It  
20 used to be Inventory Control as the title,  
21 and you -- you changed the title and called  
22 this a Suspicious Order Policy, correct?  
23 A. I remember that now, yes.  
24 Q. And you did some other things,  
25 too, that are shown with the underlining.

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1 You understand the underlining to be new  
2 content and the strike-throughs to be deleted  
3 content?  
4 A. Correct.  
5 Q. Okay. So one of the things  
6 that you put into this policy down at the  
7 bottom is a bullet point that states:  
8 Suspicious order criteria include, but are  
9 not limited to the following.  
10 And then you identify some  
11 criteria for suspicious orders, correct?  
12 A. Correct.  
13 Q. And you would agree that that's  
14 the first time you put any criteria for  
15 suspicious orders into a written policy for  
16 HBC and Giant Eagle?  
17 MR. KOBRIN: Object to form.  
18 A. I believe so.  
19 BY MR. BARTON:  
20 Q. Okay.  
21 MR. KOBRIN: You want to take  
22 another break? We're at about two  
23 hours.  
24 MR. BARTON: Yeah, we can do  
25 that.

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1 THE VIDEOGRAPHER: Off the  
 2 record at 3:35 p.m.  
 3 (Recess taken, 3:35?p.m. to  
 4 4:08?p.m.)  
 5 THE VIDEOGRAPHER: We're back  
 6 on the record at 4:08 p.m.  
 7 BY MR. BARTON:  
 8 Q. Okay. Mr. Rogos, I am still  
 9 looking at Exhibit 11, and just a couple more  
 10 questions about that before we leave it.  
 11 The suspicious order policy  
 12 with the redlines that we were looking at  
 13 which is on the page numbered 493, that's the  
 14 end of the Bates number. Do you see that?  
 15 A. I do.  
 16 Q. So those redlines that you  
 17 thought you might have done, do you -- would  
 18 you assume that those were likely done  
 19 sometime in the time frame between February  
 20 of 2015, when you had received the assessment  
 21 from NABP about policies, and then you're in  
 22 the time period of trying to respond to their  
 23 concerns in that 90-day period?  
 24 I'm just asking: Do you  
 25 believe that's probably when you revised that

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1 policy?  
 2 MR. KOBRIN: Object to form.  
 3 A. I believe so.  
 4 BY MR. BARTON:  
 5 Q. A better way to ask the  
 6 question is: Do you remember when you did  
 7 those redlines?  
 8 A. Not specifically, no.  
 9 Q. Okay. But based on -- based on  
 10 what we have seen so far, you think it's most  
 11 likely that it did occur in the time frame  
 12 between February 10, 2015 and March 29 of  
 13 2015?  
 14 A. And where are those dates?  
 15 Q. The February 10 was the date of  
 16 the NABP assessment and policies.  
 17 A. Right.  
 18 MR. KOBRIN: And what exhibit  
 19 was that?  
 20 MR. BARTON: That was  
 21 exhibit -- I think that was Exhibit 8.  
 22 No, it's not. Sorry. It might be  
 23 Exhibit 9. Was it Exhibit 10? Yeah,  
 24 yeah, okay.  
 25 THE WITNESS: Okay.

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1 BY MR. BARTON:  
 2 Q. In Exhibit 10, that's when we  
 3 went through the NABP assessment feedback  
 4 that they had given you on policies, and that  
 5 was dated February 10 of 2015. That's why I  
 6 used that date.  
 7 And then -- and so you sent the  
 8 letter back asking for the 90-day extension  
 9 on February 23rd, but you got the assessment  
 10 on February 10. So I'm just kind of trying  
 11 to, again, kind of keep a timeline together  
 12 here.  
 13 And do you believe, looking at  
 14 these redlines, it's most likely that you  
 15 would have made them sometime after the NABP  
 16 assessment report of February 10, 2015 and  
 17 March 29, which is when Dolly is forwarding  
 18 these around that have those redlines?  
 19 MR. KOBRIN: Object to form.  
 20 A. I believe so.  
 21 BY MR. BARTON:  
 22 Q. Okay. The -- so -- and the  
 23 clean version is immediately preceding that  
 24 redline version of the suspicious order  
 25 policy, correct?

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1 You're looking at -- we're now  
 2 looking at the clean version, 491?  
 3 A. Yeah.  
 4 Q. The page is ending 491.  
 5 Would you agree that the policy  
 6 regarding reviewing orders and trends to  
 7 identify suspicious drug orders, that it --  
 8 it still doesn't have a lot of detail on  
 9 exactly how orders are reviewed, like just  
 10 sort of the mechanism or the steps for  
 11 reviewing them.  
 12 Would you agree with that?  
 13 MR. KOBRIN: Object to form.  
 14 A. In terms of the warehouse  
 15 reviewing them, like identifying those steps?  
 16 BY MR. BARTON:  
 17 Q. Yes.  
 18 A. Wouldn't it identify them in  
 19 the second bullet point?  
 20 Q. Well, it does identify  
 21 criteria, and so it identifies things you're  
 22 looking for, correct, purchases over a  
 23 defined top period that exceed a  
 24 predetermined threshold.  
 25 So, I mean, that suggests that

<p style="text-align: right;">Page 118</p> <p>1 somebody would set a threshold and then          2 orders would be reviewed against a threshold,          3 right?          4 A. Correct.          5 Q. And orders of unusual          6 quantities compared to a customer's order          7 history -- so, yeah, I'm just simply asking          8 if you would agree that this doesn't explain          9 exactly the steps of who does what in terms          10 of how that happens?          11 MR. KOBRIN: Object to form.          12 A. I'm not really -- I'm kind of          13 understanding the question, but I don't, in          14 the same form.          15 BY MR. BARTON:          16 Q. Okay. All right. Okay.          17 That's fine.          18 (HBC-Rogos Deposition          19 Exhibit 12 marked.)          20 BY MR. BARTON:          21 Q. Okay. I'm handing you          22 Exhibit 12. Oh, let's see. Hold on. Mine's          23 off. My staple's come out. Okay.          24 Exhibit 12, just make sure          25 we've got the same exhibit here. It's a</p>	<p style="text-align: right;">Page 120</p> <p>1 PDF version policies for VAWD as well the          2 document retention policy and chart. If you          3 have any questions, let us know.          4 Do you see that?          5 A. I do.          6 Q. Okay. So do you recall kind of          7 the effort to finish and get into final form          8 the policies for the VAWD application in and          9 around early April of 2015?          10 A. Yes.          11 Q. Okay. And you were personally          12 involved in that effort as part of that team?          13 A. I was.          14 Q. Okay. And some of that would          15 have included you continuing to revise and          16 edit policies as needed to try to get them          17 into the final form?          18 A. Correct.          19 Q. Okay. The -- if we turn to the          20 suspicious order policy that is attached to          21 this e-mail, and you can see it's -- it is          22 listed in the attachments on the first page.          23 There's an Inventory Control - Suspicious          24 Order Policy. I find it -- sorry, I had it.          25 Okay.</p>
<p style="text-align: right;">Page 119</p> <p>1 multiple-page document, the first number          2 HBC_MDL00078594; is that right?          3 A. Correct.          4 Q. And the last page,          5 HBC_MDL00078668.          6 A. Correct.          7 Q. Okay. This exhibit appears to          8 be an e-mail from a Sara Green, executive          9 secretary at Giant Eagle, to the same people          10 who have been on other e-mails, largely, in          11 terms of the team that appears to have been          12 working on VAWD certification, including you;          13 is that right?          14 A. Correct.          15 Q. And the subject of her e-mail          16 is: All policies for VAWD reflected as of          17 5:00 p.m. today.          18 Do you see that?          19 A. I do.          20 Q. Okay. And then it appears to          21 list a number of attachments, PDF attachments          22 to the e-mail, correct?          23 A. Correct.          24 Q. And then her text of her e-mail          25 to the group says: Attached are all final</p>	<p style="text-align: right;">Page 121</p> <p>1 Page -- the Bates number is          2 ending 638. Do you see that?          3 A. I do.          4 Q. Okay. Now, actually, the best          5 thing to do just to make this easy is let's          6 also open back up from the previous exhibit          7 the suspicious order policy that was          8 attached. I'm sorry, I should have had you          9 keep your thumb in it, I just wasn't          10 thinking.          11 So from Exhibit 11 let's go          12 back to the clean version of the suspicious          13 order policy there.          14 MR. KOBRIN: I'm going to          15 object to relevance to any of this          16 because I don't believe we are -- HBC          17 is distributing any of the relevant          18 products at this time.          19 MR. BARTON: I think that's          20 probably right, but I just am trying          21 to get the history on the policy here          22 just nailed down, get the timeline,          23 but...          24 I mean, I don't agree that it's          25 irrelevant, but I agree with your</p>

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1 factual --  
2 MR. KOBRIN: You don't agree  
3 it's irrelevant?  
4 MR. BARTON: I agree with your  
5 representation about the time frame.  
6 Okay.  
7 BY MR. BARTON:  
8 Q. So just a couple of questions  
9 here. So the -- there are a few changes, not  
10 too many, but there's a few changes between  
11 the document that is the suspicious order  
12 policy we saw in Exhibit 11, the clean  
13 version on Bates number 181491, and this --  
14 which was attached to an e-mail March 29 from  
15 Dolly Stevens, and then now this final  
16 version being circulated April 9 of 2015.  
17 MR. KOBRIN: Object to form.  
18 BY MR. BARTON:  
19 Q. Well, would you agree that just  
20 comparing these two, while very similar,  
21 there are a few small changes?  
22 MR. KOBRIN: Object to form.  
23 A. It looks like there are.  
24 BY MR. BARTON:  
25 Q. Okay. We can just kind of note

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1 them. The -- well, for one, the one in  
2 Exhibit 12, the -- being circulated on  
3 April 9 as a final version, it has a revision  
4 date of 4/9/2015 and a last reviewed date of  
5 4/9/2015.  
6 Do you see that?  
7 A. I do.  
8 Q. And those dates don't appear in  
9 the one that we had seen earlier, which was  
10 being circulated on March 29, 2015, correct?  
11 A. Correct.  
12 Q. Okay. The -- in the -- the  
13 purpose/objective and the scope are basically  
14 the same. There's a little bit of a  
15 formatting difference, but substantively I  
16 think they say the same thing.  
17 The policy section is where  
18 there's just a little -- there's been a  
19 change. In the Exhibit 11 version, Bates  
20 number 181491, the policy version has -- the  
21 policy section, I'm sorry, is broken out into  
22 five bullet points, and the policy section on  
23 the final version in Exhibit 12, Bates  
24 number 78638, that's just broken out into two  
25 bullet points, correct?

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1 A. Yes.  
2 Q. Do you recall whether you made  
3 those changes between March 29 and April 9 to  
4 this policy?  
5 A. I don't remember.  
6 Q. Do you recall any discussion  
7 about why those changes were made?  
8 A. I don't recall specifically.  
9 Q. Do you know who made them?  
10 MR. KOBRIN: Object to form,  
11 asked and answered.  
12 MR. BARTON: Is that what I  
13 asked him?  
14 BY MR. BARTON:  
15 Q. I think I asked you if you made  
16 them. Do you know -- do you know who made  
17 them?  
18 A. No.  
19 Q. Okay. As part of the team that  
20 was reviewing and revising policies for  
21 purposes of VAWD certification, do you  
22 believe that as of April 9 when this policy  
23 was being circulated as a final policy for  
24 VAWD certification, do you believe you had  
25 reviewed and approved this policy as -- as a

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1 final?  
2 MR. KOBRIN: Object to form.  
3 A. I probably reviewed it and  
4 forwarded it on, either just saved it and  
5 then -- along with other policies in the  
6 S: drive.  
7 MR. KOBRIN: Don't speculate if  
8 you're not sure.  
9 THE WITNESS: Okay.  
10 BY MR. BARTON:  
11 Q. Do you believe you reviewed all  
12 of the policies that were being submitted to  
13 VAWD for purposes of applying for VAWD  
14 certification to make sure that you felt like  
15 they were complete?  
16 MR. KOBRIN: At what time?  
17 MR. BARTON: As of April 9,  
18 2015.  
19 MR. KOBRIN: Because this is  
20 not being submitted to VAWD here.  
21 MR. BARTON: Correct.  
22 MR. KOBRIN: Okay.  
23 THE WITNESS: So --  
24 MR. BARTON: Yeah, let me back  
25 up.

<p style="text-align: right;">Page 126</p> <p>1 BY MR. BARTON:</p> <p>2 Q. When Ms. Green circulated these</p> <p>3 to the group on that cover e-mail on the</p> <p>4 first page of this exhibit, she just said:</p> <p>5 Attached are all final PDF versions of</p> <p>6 policies for VAWD.</p> <p>7 I'm asking you, then: Do you</p> <p>8 believe that her statement or</p> <p>9 characterization of these as final policies</p> <p>10 for VAWD -- do you believe that was accurate</p> <p>11 at the time? Do you believe you considered</p> <p>12 these to be final for VAWD?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 A. Yes.</p> <p>15 BY MR. BARTON:</p> <p>16 Q. Okay. One of the last items on</p> <p>17 this suspicious order policy on page 2 of</p> <p>18 it -- I'm now looking at Exhibit 12, so Bates</p> <p>19 number -- I'm on page 78639.</p> <p>20 One of the last items just</p> <p>21 deals with records retention. It says: HBC</p> <p>22 retains the records of the investigation and</p> <p>23 outcome for six years.</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 128</p> <p>1 The first page is</p> <p>2 HBC_MDL00133670; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And the last page is</p> <p>5 HBC_MDL00133748; is that right?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. The first page of the</p> <p>8 exhibit has two e-mails, and the lower one</p> <p>9 appears to be from you on Friday, April 10 of</p> <p>10 2015, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And it is to -- it is written</p> <p>13 to Alejandro Aranda at NABP; is that correct?</p> <p>14 A. Correct.</p> <p>15 Q. And so there's several</p> <p>16 recipients of the e-mail, including</p> <p>17 Mr. Aranda, and then a VAWD address at</p> <p>18 nabp.net, and then a number of people on your</p> <p>19 team, true?</p> <p>20 A. Yes.</p> <p>21 Q. And this one actually, the</p> <p>22 subject says: HBC VAWD Application and</p> <p>23 Documents, Part 2, right?</p> <p>24 A. Yes.</p> <p>25 Q. And in your e-mail you say to</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Do you have any understanding</p> <p>2 of whether that part of this policy was a new</p> <p>3 policy or just memorialized as a previously</p> <p>4 existing policy?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. At least during the time</p> <p>7 that you continued to be at HBC, do you</p> <p>8 believe that HBC complied with that retention</p> <p>9 policy stated in this document?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 A. I don't know. I would assume</p> <p>12 so, but I don't know.</p> <p>13 BY MR. BARTON:</p> <p>14 Q. Okay. You would expect it to</p> <p>15 have been followed as director of warehouse</p> <p>16 operations?</p> <p>17 A. Yes.</p> <p>18 (HBC-Rogos Deposition</p> <p>19 Exhibit 13 marked.)</p> <p>20 BY MR. BARTON:</p> <p>21 Q. Okay. I'm handing you</p> <p>22 Exhibit 13. Okay. Again, just to identify</p> <p>23 the exhibit, this is a multiple-page exhibit</p> <p>24 with some e-mails on the first page and a</p> <p>25 number of attachments.</p>	<p style="text-align: right;">Page 129</p> <p>1 Mr. Aranda, Alejandro: Attached are the</p> <p>2 remainder of the SOPs for our VAWD</p> <p>3 application, which kind of suggests there may</p> <p>4 have been a Part 1 e-mail, correct?</p> <p>5 A. I'm assuming so.</p> <p>6 Q. Which is fine. I just am</p> <p>7 making sure you kind of agree that's what</p> <p>8 you're doing there.</p> <p>9 You go on to say: You will see</p> <p>10 that attached to this e-mail I have included</p> <p>11 the VAWD PP Assessment Final that references</p> <p>12 the pages of the SOPs where you will be able</p> <p>13 to find the answers to the assessment</p> <p>14 questions.</p> <p>15 Is that what you said?</p> <p>16 A. Yes.</p> <p>17 Q. And so what -- in part what you</p> <p>18 were trying to do for Mr. Aranda there was to</p> <p>19 not only provide him the policies that you</p> <p>20 had revised and pulled together for VAWD, but</p> <p>21 also to direct him to the assessment they had</p> <p>22 given you kind of to show where you had</p> <p>23 responded to their concerns?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. Is that kind of the idea there?</p>

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1 A. Yeah.  
 2 Q. The -- and so, then again,  
 3 included in this document are obviously a  
 4 number of policies, including the suspicious  
 5 order policy that we've gone over, and that  
 6 appears -- it appears at Bates number 133730.  
 7 Do you agree with that?  
 8 A. Yes.  
 9 Q. Okay. And then back to the  
 10 e-mails, the e-mail above yours on this  
 11 document, on this exhibit, appears to be from  
 12 Greg Carlson to Mark Doerr sent that same day  
 13 with Mr. Carlson saying VAWD on the way.  
 14 Do you see that?  
 15 A. I do.  
 16 Q. Who is Mr. Doerr?  
 17 A. I don't know.  
 18 Q. Okay. But it would appear that  
 19 Mr. Carlson was kind of forwarding your  
 20 e-mail with the -- with those VAWD documents  
 21 for the application to Mr. Doerr and just  
 22 reporting to him that the VAWD application  
 23 was on its way?  
 24 A. Looks like it.  
 25 Q. Okay. Now, you left HBC in May

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1 of 2015; is that right?  
 2 A. I did.  
 3 Q. So once you left, I assume you  
 4 obviously had no involvement in any further  
 5 dealings trying to get VAWD certification,  
 6 correct?  
 7 A. No, I did not.  
 8 Q. Were you contacted, after you  
 9 left, by HBC for any kind of follow-up  
 10 questions, just as they may have continued in  
 11 that process?  
 12 A. Not that I can remember.  
 13 Q. Okay. Did you ever hear  
 14 anything more from anybody at HBC about their  
 15 VAWD application?  
 16 A. Nothing specific, no.  
 17 Q. Okay. And -- yeah, that's  
 18 fine. I don't want you to reveal anything  
 19 that you talked about with counsel. I just  
 20 meant from HBC people at that time, and you  
 21 don't remember anything it sounds like.  
 22 A. No.  
 23 MR. BARTON: Okay. Give me --  
 24 let's just take a very short break. I  
 25 think I'm done, but let me just make

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1 sure.  
 2 THE VIDEOGRAPHER: Off the  
 3 record at 4:30 p.m.  
 4 (Recess taken, 4:30 p.m. to  
 5 4:40?p.m.)  
 6 THE VIDEOGRAPHER: We're back  
 7 on the record at 4:40 p.m.  
 8 MR. BARTON: Mr. Rogos, I  
 9 appreciate your time today, and I  
 10 don't have any further questions.  
 11 THE WITNESS: Thank you.  
 12 EXAMINATION  
 13 BY MR. KOBRIN:  
 14 Q. Mr. Rogos, I just have a couple  
 15 of follow-up questions for you.  
 16 Could you do me a favor and  
 17 grab Exhibit 7. Do you recall discussing  
 18 this document with opposing counsel?  
 19 A. I do.  
 20 Q. And as I recall, this is the  
 21 first version of a document that you  
 22 formatted in this way in part to prepare for  
 23 a VAWD application; is that correct?  
 24 MR. BARTON: Object to form.  
 25 A. That's correct.

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1 BY MR. KOBRIN:  
 2 Q. Did you format this document?  
 3 A. I did.  
 4 Q. And the content of this  
 5 document, where did it come from?  
 6 A. This was taken -- the content  
 7 was taken from an existing standard operating  
 8 procedures and policies notebook that I had  
 9 regarding the HBC pharmacy room.  
 10 Q. And that was the notebook, the  
 11 three-ring binder that you mentioned earlier  
 12 in your testimony to opposing counsel?  
 13 A. That's correct.  
 14 Q. So this is a preexisting policy  
 15 that existed in writing prior to August 1st,  
 16 2014?  
 17 A. It did, yes.  
 18 Q. And this document here is a  
 19 reformatting of that policy in order to try  
 20 and meet the formatting specifications of the  
 21 VAWD application; is that what's being done  
 22 here?  
 23 A. Yes, that's it exactly.  
 24 Q. Could you turn to Exhibit 6.  
 25 Do you recall looking at this document with

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1 opposing counsel?  
2 A. I do.  
3 Q. And if you turn to the page  
4 Bates-marked HBC\_MDL00180073, when you were  
5 looking at this page you talked to opposing  
6 counsel about certain check marks that were  
7 on this document.  
8 Do you recall that?  
9 A. I do.  
10 Q. And as I recall, you testified  
11 that you weren't sure who had entered the  
12 check marks onto the document?  
13 A. That's correct.  
14 Q. And opposing counsel asked you  
15 if there was a check mark under the second  
16 box on the page that begins with reporting  
17 suspicious prescription product orders; is  
18 that correct?  
19 A. Correct.  
20 Q. What did it mean if there was a  
21 check mark next to one of these tasks on  
22 these lists?  
23 Do you recall what that meant?  
24 MR. BARTON: Object to form.  
25 BY MR. KOBRIN:

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1 Q. Do you recall what it meant if  
2 there was a check mark versus whether there  
3 was not a check mark on these lists?  
4 A. Yes. From my recollection, the  
5 check mark meant that we had the procedure  
6 documented and in place.  
7 Something that might not have  
8 been checked, like the first box, might have  
9 meant that we still needed to get that in the  
10 format and then with the specific detail that  
11 was required by VAWD. It didn't mean that we  
12 did not have that policy.  
13 Q. Thank you.  
14 Could you turn to Exhibit 10.  
15 This is an e-mail from Dolly Stevens, and it  
16 has an attachment that has the VAWD  
17 assessment that you guys received on  
18 February 10th, 2015.  
19 Do you recall discussing this  
20 with opposing counsel?  
21 A. I do.  
22 Q. Now, if you could go to the  
23 attachment and go to the tenth page of the  
24 attachment which is Bates-stamped  
25 HBC\_MDL00181533.

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1 A. Okay.  
2 Q. Opposing counsel asked you  
3 about the first bullet under Reviewer  
4 Comments at the top of that page.  
5 Do you see that first bullet?  
6 A. I do.  
7 Q. And that first bullet says: A  
8 process for conducting authentication of  
9 prescription customer orders for product is a  
10 VAWD requirement.  
11 Do you see that?  
12 A. I do.  
13 Q. Do you recall what this bullet  
14 was about or having conversations with VAWD  
15 contacts about what they were commenting on  
16 in this bullet?  
17 A. Yeah. Mike Bianco and I had a  
18 conversation with Alejandro specifically  
19 about that bullet point. Alejandro wanted  
20 verification on how we authenticate a valid  
21 order.  
22 What we had to explain to  
23 Alejandro and what he did not know is that  
24 the HBC pharmacy warehouse only shipped to  
25 Giant Eagle pharmacies.

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1 Those Giant Eagle pharmacies  
2 placed their orders and submitted those  
3 orders to HBC in a closed system, so someone  
4 outside of that system, a non-Giant Eagle  
5 pharmacy, could not put an order for  
6 prescriptions into our pharmacy.  
7 What we had to explain to him,  
8 that was our authentication process, that  
9 those orders were authentic because they came  
10 from Giant Eagle pharmacies.  
11 Q. So the entire concern expressed  
12 in this bullet regarding how orders are  
13 received, reviewed, processed or screened for  
14 suspicious order criteria, that all related  
15 to the authentication issue?  
16 MR. BARTON: Object to form.  
17 A. Correct. Correct.  
18 MR. KOBRIN: Strike the prior  
19 question.  
20 BY MR. KOBRIN:  
21 Q. The issue that was raised here  
22 about how orders are received, reviewed,  
23 processed or screened for suspicious order  
24 criteria, did those all relate to that  
25 authentication question that you explained to

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1 Alejandro?  
 2 A. Yes.  
 3 Q. Would you look at Exhibit 11  
 4 very quickly. This is a document that has  
 5 policies and then markups of those policies  
 6 as attachments to the e-mail.  
 7 Do you recall looking at this  
 8 document?  
 9 A. I do.  
 10 Q. Could you go to the markup of  
 11 the suspicious order policy, which is at  
 12 HBC\_MDL00181493.  
 13 A. Okay.  
 14 Q. Opposing counsel asked you a  
 15 lot about the markups and the additional text  
 16 that you added under the procedures here.  
 17 Do you recall talking about  
 18 that?  
 19 A. I do.  
 20 Q. This additional text that you  
 21 were involved in adding to the policy, what  
 22 is this additional text based upon?  
 23 A. The additional text was based  
 24 upon detailing very specifically what we had  
 25 been doing in the HBC pharmacy prior to

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1 creating this document.  
 2 The policies previous did not  
 3 explain or detail what exactly was being done  
 4 in the pharmacy or what was occurring on a  
 5 day-to-day basis, so this just made sure that  
 6 we were detailing that in the specificity  
 7 that VAWD required.  
 8 Q. So before you -- before you put  
 9 these into this new version 2 of the  
 10 suspicious order policy, did the employees at  
 11 the warehouse, did they know about these  
 12 details that you've itemized here? Were they  
 13 aware of them?  
 14 A. Yes.  
 15 Q. And were they acting upon them?  
 16 A. Yes.  
 17 Q. And were you aware of them?  
 18 A. I was.  
 19 Q. And were you supervising your  
 20 warehouse employees in their actions in  
 21 relation to these details?  
 22 A. I was.  
 23 MR. KOBRIN: I have no further  
 24 questions. Pass the witness.  
 25 MR. BARTON: I have a few

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1 follow-up questions.  
 2 EXAMINATION  
 3 BY MR. BARTON:  
 4 Q. The -- tell me how is it you  
 5 know that the employees in the warehouse  
 6 during -- prior to you making the revisions  
 7 in this policy that you were just asked about  
 8 in the suspicious order policy, tell me how  
 9 is it that you know that the employees of the  
 10 warehouse knew about the suspicious order  
 11 criteria and how they should be factored into  
 12 looking for suspicious orders?  
 13 MR. KOBRIN: Object to the  
 14 form.  
 15 A. There were conversations with  
 16 the employees specifically, the support staff  
 17 that worked not only on the daily shifts, but  
 18 afternoon shifts, with individuals who  
 19 ordered and monitored those orders at our  
 20 corporate office.  
 21 BY MR. BARTON:  
 22 Q. So you had conversations with  
 23 people who worked at the warehouse, and  
 24 that's your basis for believing they  
 25 understood it?

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1 A. My understanding, yes, uh-huh.  
 2 Q. There -- was there ever, during  
 3 the time that you were director of warehouse  
 4 operations, was there ever any specific  
 5 training that you directed or conducted of  
 6 your employees on suspicious order  
 7 monitoring?  
 8 A. Not that I did.  
 9 Q. Okay. Did it ever occur? I  
 10 mean, apart from whether you actually did the  
 11 training, did you -- do you know whether your  
 12 employees ever got training on the specifics  
 13 of suspicious order monitoring while you were  
 14 director of warehouse operations?  
 15 A. No.  
 16 Q. Okay. And I think you've  
 17 testified there wasn't, to your recollection,  
 18 or at least you're not able to say there was,  
 19 an LMS training system where it would be  
 20 documented somewhere that every employee was  
 21 trained on these policies, correct?  
 22 A. I'm not aware of that.  
 23 Q. Okay. After -- after this  
 24 policy was revised to include the suspicious  
 25 order criteria that counsel was just pointing

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1 out -- after those revisions occurred in  
 2 early 2015, do you -- understanding you left  
 3 by May of 2015, so I know we're talking about  
 4 a short window there, but during that window  
 5 of time, do you know whether employees were  
 6 trained on this new policy in that window?  
 7 A. I hadn't --  
 8 MR. KOBRIN: Object to form.  
 9 Object to form in that you're  
 10 describing the month between April of  
 11 2015 and May of 2015?  
 12 MR. BARTON: Yeah, or whenever  
 13 these edits were made prior to April.  
 14 MR. KOBRIN: The edits that he  
 15 already testified people were already  
 16 acting on, those particular changes  
 17 that we talked about that people were  
 18 already performing.  
 19 MR. BARTON: I'm asking whether  
 20 there was any new training on this new  
 21 policy after the policy was edited.  
 22 A. From the time it was sent to  
 23 VAWD, we did not do any training due to the  
 24 fact it was not verified if we needed to make  
 25 further edits on those policies.

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1 BY MR. BARTON:  
 2 Q. Okay. All right. And -- and  
 3 then you were gone, so you don't know what  
 4 happened after you left, correct?  
 5 A. I don't.  
 6 Q. Okay. Back on -- just to  
 7 follow up here, on Exhibit 6 that you were  
 8 just asked about by counsel, Exhibit 6 has  
 9 the check marks, the inventory controls,  
 10 page -- so I'm looking within Exhibit 6 at  
 11 Bates number 180073.  
 12 A. Okay.  
 13 Q. Okay. And counsel asked you  
 14 about the absence of the check mark in  
 15 reporting suspicious prescription product  
 16 orders, and I believe that what you said is  
 17 that the absence of the check mark doesn't  
 18 mean you didn't have that policy. Instead,  
 19 you said a check mark meant that you had the  
 20 policy in place and it was documented, but  
 21 the absence of the check mark doesn't mean  
 22 you didn't have the policy?  
 23 MR. KOBRIN: Object to form,  
 24 misrepresents his testimony.  
 25 MR. BARTON: I'm sorry, yeah,

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1 I'm just -- I'm trying to understand  
 2 what your testimony was.  
 3 BY MR. BARTON:  
 4 Q. What -- let me ask it this way.  
 5 What we went through earlier is  
 6 that on this document, there are both some  
 7 boxes that are checked and some that are not  
 8 checked, but there's also a list of policies  
 9 at the end of this section that were believed  
 10 to be relevant and responsive to this topic,  
 11 correct?  
 12 A. Correct.  
 13 Q. And we -- and I believe we've  
 14 already identified that there was an  
 15 inventory control policy in place that you  
 16 found and formatted the way it was formatted  
 17 as of August 1 of 2014, correct?  
 18 A. Correct.  
 19 Q. And so that -- and that  
 20 document was the document that you recall  
 21 associating with this inventory control  
 22 section of the VAWD checklist, right?  
 23 A. I do.  
 24 Q. Okay. Other than that  
 25 inventory control document, which eventually

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1 had the date of August 1, 2014 associated  
 2 with it when it got formatted that way, other  
 3 than that document, were there any other  
 4 written documents or policies that you were  
 5 aware of in your library of SOPs that  
 6 addressed the reporting of suspicious product  
 7 orders?  
 8 MR. KOBRIN: Object to form.  
 9 Do you remember?  
 10 A. No. No.  
 11 BY MR. BARTON:  
 12 Q. You can't -- as you sit here,  
 13 you are not aware of any other document that  
 14 did address specifically the reporting of  
 15 suspicious prescription product orders?  
 16 A. I can't say there was and I  
 17 can't say there wasn't. No, I don't  
 18 remember.  
 19 Q. Right. And so the -- for  
 20 example, any of these other documents that  
 21 were listed after the checklist on that  
 22 following page, after inventory control  
 23 policy, there's the receiving controlled  
 24 drugs final. There's the final stocking SOP.  
 25 There's the flow rack selection SOP.

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1           You don't know whether any of  
2 those, for example, may have somehow  
3 addressed the reporting of suspicious drug  
4 orders, correct?  
5           MR. KOBRIN: Object to form.  
6           He said he didn't remember whether any  
7 did or didn't.  
8           A. I don't remember.  
9           MR. BARTON: Okay. I'm just  
10 directing him to the documents listed  
11 on the page.  
12 BY MR. BARTON:  
13           Q. And so what your testimony also  
14 is, is that you don't know whether there were  
15 any other additional documents not listed  
16 here that addressed reporting of suspicious  
17 prescription orders, right?  
18           A. I don't recall.  
19           Q. If there had been any that  
20 directly addressed reporting of suspicious  
21 orders, it would have been your intent to try  
22 to identify those, list them here and account  
23 for whether they adequately met the VAWD  
24 requirements, right, because that was your  
25 objective in this project, right?

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1           MR. KOBRIN: Object to form.  
2           A. That's correct.  
3 BY MR. BARTON:  
4           Q. And on Exhibit 10, just  
5 following up on the questions counsel asked  
6 about the Exhibit 10 assessment from VAWD, I  
7 think you clarified what you understood one  
8 of Alejandro's misunderstandings to be, which  
9 was that he didn't understand initially that  
10 HBC only shipped to Giant Eagle retail  
11 pharmacies, correct?  
12           A. That's correct.  
13           Q. And that makes HBC different  
14 from some wholesalers or distributors that  
15 might ship to any number of potential  
16 pharmacies that they may not have as much  
17 familiarity with as HBC and Giant Eagle did  
18 with its own retail pharmacies, correct?  
19           A. Correct.  
20           Q. Based on that, do you believe  
21 that any order from a Giant Eagle retail  
22 pharmacy that is received by the HBC -- that  
23 was received by the HBC warehouse could not  
24 have been a suspicious order?  
25           MR. KOBRIN: Object to form,

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1           beyond the scope.  
2           A. What type of order?  
3 BY MR. BARTON:  
4           Q. An order for controlled  
5 substances.  
6           Was it possible, then, if --  
7 I'm asking you if you -- your understanding  
8 of what a suspicious order could be.  
9           Was it even possible for a  
10 Giant Eagle pharmacy to place a suspicious  
11 order to HBC?  
12           MR. KOBRIN: Object to form,  
13 same reason.  
14           A. We had controls in place at not  
15 only our own -- at the pharmacy level, but at  
16 the corporate level and at the warehouse  
17 level.  
18           Anything's possible. If we did  
19 have an order that came through that we  
20 thought should have been flagged, we  
21 contacted the folks that would monitor those  
22 types of levels.  
23           So could it happen? It could,  
24 but we would have flagged it along the way.  
25 BY MR. BARTON:

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1           Q. Because there's a difference --  
2 would you agree there's a difference between  
3 verifying that an order is authentic, like a  
4 legitimate order from a pharmacy wanting  
5 product. There's a difference between just  
6 verifying that an order is authentic and  
7 evaluating whether the order is suspicious,  
8 authentic but suspicious.  
9           Those are two different things,  
10 right?  
11           MR. KOBRIN: Objection, beyond  
12 the scope.  
13           A. I'm not sure I understand the  
14 question.  
15 BY MR. BARTON:  
16           Q. Well, I think -- I think that  
17 you were -- you had indicated that, you know,  
18 one of the first items in this bullet point  
19 from the NABP was a process for conducting  
20 authentication of prescription customer  
21 orders, and I think what you're indicating is  
22 you knew -- through your system, your  
23 internal system of who was ordering, you knew  
24 that your orders were authentic, right, from  
25 Giant Eagle pharmacies?

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1 A. Correct.  
 2 Q. Because it was a closed system,  
 3 you couldn't get an order from a stranger,  
 4 correct?  
 5 A. Could not.  
 6 Q. Okay. So you knew through your  
 7 own processes that the orders were authentic,  
 8 and you had to explain that to Alejandro,  
 9 correct?  
 10 A. That's right.  
 11 Q. Because he didn't understand  
 12 that about HBC and who its customers were,  
 13 right?  
 14 A. He did not.  
 15 Q. But I'm just saying authentic  
 16 is one thing. It's -- you know, you want to  
 17 verify that the orders are authentic and not  
 18 being placed by some rogue non-real pharmacy,  
 19 correct, but you knew that yours would be,  
 20 true?  
 21 A. Correct.  
 22 Q. But that's not the same as  
 23 evaluating whether an order -- there are  
 24 reasons why an order, authentic as an order,  
 25 may still be suspicious. That's a separate

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1 inquiry, right?  
 2 MR. KOBRIN: Object to form.  
 3 He's already testified about this.  
 4 His testimony on redirect was about  
 5 the concern on the reviewer comment  
 6 and whether their concern about  
 7 authentication was tied to all these  
 8 issues.  
 9 Your distinction between  
 10 whether an authentic order is  
 11 different from a suspicious order is  
 12 completely beyond the scope.  
 13 MR. BARTON: I don't think it's  
 14 beyond the scope at all. I'm just  
 15 asking him if he understands that  
 16 distinction.  
 17 BY MR. BARTON:  
 18 Q. Do you agree that's a  
 19 distinction?  
 20 A. There's a difference between an  
 21 authentic and a suspicious order.  
 22 Q. Right. Okay.  
 23 And the -- both the feedback  
 24 from Alejandro and NABP and the checklist of  
 25 things that NABP and VAWD is interested in

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1 encompasses both authenticity and whether  
 2 orders are suspicious, correct?  
 3 MR. KOBRIN: Object to form,  
 4 misrepresents prior testimony.  
 5 A. Correct.  
 6 MR. BARTON: Okay. No further  
 7 questions.  
 8 EXAMINATION  
 9 BY MR. KOBRIN:  
 10 Q. I just have one quick  
 11 follow-up. Looking at your r?sum? on  
 12 Exhibit 1, you started working at HBC Service  
 13 Company in late 2013; is that accurate?  
 14 A. That's correct.  
 15 Q. Were you aware of training that  
 16 occurred prior to the time that you started  
 17 working as the manager at HBC in late 2013?  
 18 A. I was not.  
 19 MR. KOBRIN: Thank you.  
 20 MR. BARTON: Nothing further.  
 21 THE VIDEOGRAPHER: This  
 22 concludes this deposition. The time  
 23 is 5:02 p.m. Off the record.  
 24 (Proceedings recessed at  
 25 5:02 p.m.)

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1 CERTIFICATE  
 2 I, MICHAEL E. MILLER, Fellow of  
 3 the Academy of Professional Reporters,  
 4 Registered Diplomate Reporter, Certified  
 5 Realtime Reporter, Certified Court Reporter  
 6 and Notary Public, do hereby certify that  
 7 prior to the commencement of the examination,  
 8 MATTHEW ROGOS was duly sworn by me to testify  
 9 to the truth, the whole truth and nothing but  
 10 the truth.  
 11 I DO FURTHER CERTIFY that the  
 12 foregoing is a verbatim transcript of the  
 13 testimony as taken stenographically by and  
 14 before me at the time, place and on the date  
 15 hereinbefore set forth, to the best of my  
 16 ability.  
 17 I DO FURTHER CERTIFY that pursuant  
 18 to FRCP Rule 30, signature of the witness was  
 19 not requested by the witness or other party  
 20 before the conclusion of the deposition.  
 21 I DO FURTHER CERTIFY that I am  
 22 neither a relative nor employee nor attorney  
 23 nor counsel of any of the parties to this  
 24 action, and that I am neither a relative nor  
 25 employee of such attorney or counsel, and  
 26 that I am not financially interested in the  
 27 action.  
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 35 Dated: February 24, 2019

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## ACKNOWLEDGMENT OF DEPONENT

I, MATTHEW ROGOS, do hereby certify that I have read the foregoing pages and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

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MATTHEW ROGOS	DATE
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Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
My commission expires: \_\_\_\_\_

Notary Public

## ERRATA

## PAGE LINE CHANGE

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## LAWYER'S NOTES

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